

1                   A bill to be entitled  
2           An act relating to community development districts;  
3           amending s. 190.003, F.S.; revising definitions relating  
4           to community development districts; amending s. 190.005,  
5           F.S.; specifying petition and filing fee requirements for  
6           the establishment of districts; specifying requirements  
7           for the adoption of certain rules by the Florida Land and  
8           Water Adjudicatory Commission; providing requirements for  
9           the establishment of districts located in multiple  
10          municipalities; amending s. 190.006, F.S.; revising  
11          provisions for determining certain voting units for  
12          landowners within a district; providing procedures for  
13          filling district board vacancies; authorizing the board to  
14          appoint qualified electors to the board under certain  
15          circumstances; amending s. 190.007, F.S.; specifying that  
16          certain affiliations are not a conflict of interest for  
17          district board members, managers, and employees; amending  
18          s. 190.008, F.S.; revising timeframes and requirements for  
19          the preparation of proposed district budgets; amending s.  
20          190.009, F.S.; requiring the district to file disclosure  
21          documents and amendments relating to the public financing  
22          and maintenance of certain property in the property  
23          records of each county in which the district is located;  
24          amending s. 190.011, F.S.; revising statutory  
25          authorization for the enforcement of district assessments;  
26          amending s. 190.012, F.S.; revising district regulatory  
27          jurisdiction and permitting authority for certain public  
28          improvements and community facilities; authorizing the

HB 1491

2007

29 district to convey certain activities to utility  
30 providers; authorizing the district to adopt rules for  
31 enforcement of deed restrictions outside the district  
32 pursuant to an interlocal agreement; amending s. 190.014,  
33 F.S.; specifying that non-ad valorem assessments levied to  
34 pay interest on bond anticipation notes do not qualify as  
35 assessment installments; amending s. 190.021, F.S.;  
36 authorizing the use of combined notice of proposed  
37 assessments under certain circumstances; providing that  
38 assessments authorized under chapter 170 constitute liens  
39 and are subject to certain collection procedures; amending  
40 s. 190.033, F.S.; providing for competitive solicitation;  
41 authorizing the district to proceed with purchasing under  
42 certain circumstances; amending s. 190.046, F.S.; revising  
43 provisions for termination, contraction, or expansion of  
44 districts; specifying payment of certain fees to counties  
45 and municipalities; providing limitations for the  
46 amendment of certain district boundaries; requiring the  
47 written consent of certain landowners; amending s.  
48 190.047, F.S.; specifying the determination of population  
49 standards by the Department of Community Affairs for the  
50 purposes of incorporation or annexation of districts;  
51 requiring unincorporated areas to meet certain criteria  
52 for incorporation; requiring certain referenda to be held  
53 at general elections; providing effective dates.

54  
55 Be It Enacted by the Legislature of the State of Florida:  
56

57 Section 1. Subsection (6), paragraph (p) of subsection  
 58 (7), and subsections (20) and (21) of section 190.003, Florida  
 59 Statutes, are amended to read:

60 190.003 Definitions.--As used in this chapter, the term:

61 (6) "Community development district" means a local unit of  
 62 special-purpose government which is created pursuant to this act  
 63 and limited to the performance of those specialized functions  
 64 authorized by this act; ~~the boundaries of which are contained~~  
 65 ~~wholly within a single county;~~ the governing head of which is a  
 66 body created, organized, and constituted and authorized to  
 67 function specifically as prescribed in this act for the delivery  
 68 of urban community development services; and the formation,  
 69 powers, governing body, operation, duration, accountability,  
 70 requirements for disclosure, and termination of which are as  
 71 required by general law.

72 (7) "Cost," when used with reference to any project,  
 73 includes, but is not limited to:

74 (p) Payments, contributions, dedications, fair share or  
 75 concurrency obligations, and any other exactions required as a  
 76 condition to receive any government approval or permit necessary  
 77 to accomplish any district purpose.

78 (20) "Water management and control facilities" means any  
 79 lakes, canals, ditches, reservoirs, dams, levees, sluiceways,  
 80 floodways, curbs, gutters, pumping stations, or any other works,  
 81 structures, or facilities for the conservation, control,  
 82 development, utilization, and disposal of water, and any  
 83 purposes appurtenant, necessary, or incidental thereto. The term  
 84 "water management and control facilities" includes all real and

HB 1491

2007

85 | personal property and any interest therein, rights, easements,  
86 | and franchises of any nature relating to any such water  
87 | management and control facilities or necessary or convenient for  
88 | the acquisition, construction, reconstruction, operation, or  
89 | maintenance thereof.

90 |       (21) "Water system" means any plant, system, facility, or  
91 | property and additions, extensions, and improvements thereto at  
92 | any future time constructed or acquired as part thereof, useful  
93 | or necessary or having the present capacity for future use in  
94 | connection with the development of sources, treatment, or  
95 | purification and distribution of water. Without limiting the  
96 | generality of the foregoing, the term "water system" includes  
97 | dams, reservoirs, storage, tanks, mains, lines, valves,  
98 | hydrants, pumping stations, laterals, and pipes for the purpose  
99 | of carrying water to the premises connected with such system,  
100 | and all rights, easements, and franchises of any nature relating  
101 | to any such system and necessary or convenient for the operation  
102 | thereof.

103 |       Section 2. Paragraphs (b), (c), and (f) of subsection (1)  
104 | and paragraphs (d) and (e) of subsection (2) of section 190.005,  
105 | Florida Statutes, are amended to read:

106 |       190.005 Establishment of district.--

107 |       (1) The exclusive and uniform method for the establishment  
108 | of a community development district with a size of 1,000 acres  
109 | or more shall be pursuant to a rule, adopted under chapter 120  
110 | by the Florida Land and Water Adjudicatory Commission, granting  
111 | a petition for the establishment of a community development  
112 | district.

113 (b) Prior to filing the petition, the petitioner shall:  
 114 1. Pay a filing fee of \$15,000 to the county, if located  
 115 within an unincorporated area, or to the municipality, if  
 116 located within an incorporated area, and to each municipality  
 117 the boundaries of which are contiguous with, or contain all or a  
 118 portion of the land within, the external boundaries of the  
 119 district.

120 2. Submit a copy of the petition to the county, if located  
 121 within an unincorporated area, or to the municipality, if  
 122 located within an incorporated area, and to each municipality  
 123 the boundaries of which are contiguous with, or contain all or a  
 124 portion of, the land within the external boundaries of the  
 125 district.

126 3. If land to be included within a district is located  
 127 partially within the unincorporated area of one or more counties  
 128 and partially within a municipality or within two or more  
 129 municipalities, pay a \$15,000 filing fee to each entity.

130 (c) Such county and each such municipality required by law  
 131 to receive a petition may conduct a public hearing to consider  
 132 the relationship of the petition to the factors specified in  
 133 paragraph (e). The public hearing shall be concluded within 45  
 134 days after the date the petition is filed unless an extension of  
 135 time is requested by the petitioner and granted by the county or  
 136 municipality. The county or municipality holding such public  
 137 hearing may by resolution express its support of, or objection  
 138 to the granting of, the petition by the Florida Land and Water  
 139 Adjudicatory Commission. A resolution must base any objection to  
 140 the granting of the petition upon the factors specified in

HB 1491

2007

141 paragraph (e). Such county or municipality may present its  
 142 resolution of support or objection at the Florida Land and Water  
 143 Adjudicatory Commission hearing and shall be afforded an  
 144 opportunity to present relevant information in support of its  
 145 resolution.

146 (f) The Florida Land and Water Adjudicatory Commission  
 147 shall not adopt any rule which would expand, modify, or delete  
 148 any provision of the uniform community development district  
 149 charter as set forth in ss. 190.006-190.041, except as provided  
 150 in s. 190.012. A rule establishing a community development  
 151 district shall only contain the following:

152 1. A metes and bounds description of ~~Describe~~ the external  
 153 boundaries of the district and any real property within the  
 154 external boundaries of the district which is to be excluded.

155 2. The names of ~~Name~~ five persons designated to be the  
 156 initial members of the board of supervisors.

157 3. The name of the district.

158 (2) The exclusive and uniform method for the establishment  
 159 of a community development district of less than 1,000 acres in  
 160 size shall be pursuant to an ordinance adopted by the county  
 161 commission of the county having jurisdiction over the majority  
 162 of land in the area in which the district is to be located  
 163 granting a petition for the establishment of a community  
 164 development district as follows:

165 (d) The county commission shall not adopt any ordinance  
 166 which would expand, modify, or delete any provision of the  
 167 uniform community development district charter as set forth in  
 168 ss. 190.006-190.041. An ordinance establishing a community

169 development district shall only include the matters provided for  
 170 in paragraph (1)(f) unless the commission approves any of the  
 171 optional powers under s. 190.012(2) at the request of the  
 172 petitioner.

173 (e) If all of the land in the area for the proposed  
 174 district is within the territorial jurisdiction of a municipal  
 175 corporation, then the petition requesting establishment of a  
 176 community development district under this act shall be filed by  
 177 the petitioner with that particular municipal corporation. In  
 178 such event, the duties of the county, hereinabove described, in  
 179 action upon the petition shall be the duties of the municipal  
 180 corporation. If any of the land area of a proposed district is  
 181 within the land area of a municipality, the county commission  
 182 may not create the district without municipal approval. If all  
 183 of the land in the area for the proposed district, even if less  
 184 1,000 acres, is within the territorial jurisdiction of two or  
 185 more municipalities, the petition shall be filed with the  
 186 Florida Land and Water Adjudicatory Commission and proceed in  
 187 accordance with subsection (1).

188 Section 3. Paragraph (b) of subsection (2) and paragraph  
 189 (b) of subsection (3) of section 190.006, Florida Statutes, are  
 190 amended to read:

191 190.006 Board of supervisors; members and meetings.--

192 (2)

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

HB 1491

2007

197 signed by one of the legal owners of the property for which the  
198 vote is cast and must contain the typed or printed name of the  
199 individual who signed the proxy; the street address, legal  
200 description of the property, or tax parcel identification  
201 number; and the number of authorized votes. If the proxy  
202 authorizes more than one vote, each property must be listed and  
203 the number of acres of each property must be included. The  
204 signature on a proxy need not be notarized. A fraction of an  
205 acre shall be treated as 1 acre, entitling the landowner to one  
206 vote with respect thereto. For purposes of determining voting  
207 interests, platted lots shall be counted individually and  
208 rounded up to the nearest whole acre. The acreage of platted  
209 lots shall not be aggregated for determining the number of  
210 voting units held by a landowner or a landowner's proxy. The two  
211 candidates receiving the highest number of votes shall be  
212 elected for a period of 4 years, and the three candidates  
213 receiving the next largest number of votes shall be elected for  
214 a period of 2 years, with the term of office for each successful  
215 candidate commencing upon election. The members of the first  
216 board elected by landowners shall serve their respective 4-year  
217 or 2-year terms; however, the next election by landowners shall  
218 be held on the first Tuesday in November. Thereafter, there  
219 shall be an election of supervisors for the district every 2  
220 years in November on a date established by the board and noticed  
221 pursuant to paragraph (a). The second and subsequent landowners'  
222 election shall be announced at a public meeting of the board at  
223 least 90 days prior to the date of the landowners' meeting and  
224 shall also be noticed pursuant to paragraph (a). Instructions on

Page 8 of 24

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1491-00



HB 1491

2007

225 | how all landowners may participate in the election, along with  
 226 | sample proxies, shall be provided during the board meeting that  
 227 | announces the landowners' meeting. The two candidates receiving  
 228 | the highest number of votes shall be elected to serve for a 4-  
 229 | year period, and the remaining candidate elected shall serve for  
 230 | a 2-year period.

231 | (3)

232 | (b) Elections of board members by qualified electors held  
 233 | pursuant to this subsection shall be nonpartisan and shall be  
 234 | conducted in the manner prescribed by law for holding general  
 235 | elections. Board members shall assume the office on the second  
 236 | Tuesday following their election. If no elector qualifies for a  
 237 | seat to be filled in an election, a vacancy in that seat shall  
 238 | be declared by the board effective on the second Tuesday  
 239 | following the election. The board shall appoint a qualified  
 240 | elector to fill the vacancy. Until such appointment, the  
 241 | incumbent board member in that seat shall remain in office.

242 | Section 4. Effective October 1, 2007, subsection (1) of  
 243 | section 190.007, Florida Statutes, is amended to read:

244 | 190.007 Board of supervisors; general duties.--

245 | (1) The board shall employ, and fix the compensation of, a  
 246 | district manager. The district manager shall have charge and  
 247 | supervision of the works of the district and shall be  
 248 | responsible for preserving and maintaining any improvement or  
 249 | facility constructed or erected pursuant to the provisions of  
 250 | this act, for maintaining and operating the equipment owned by  
 251 | the district, and for performing such other duties as may be  
 252 | prescribed by the board. It shall not be a conflict of interest

253 | under chapter 112 for a board member or the district manager or  
 254 | another employee of the district to be a stockholder, officer,  
 255 | or employee of a landowner or of an entity affiliated with a  
 256 | landowner. The district manager may hire or otherwise employ and  
 257 | terminate the employment of such other persons, including,  
 258 | without limitation, professional, supervisory, and clerical  
 259 | employees, as may be necessary and authorized by the board. The  
 260 | compensation and other conditions of employment of the officers  
 261 | and employees of the district shall be as provided by the board.

262 |       Section 5. Paragraph (a) of subsection (2) of section  
 263 | 190.008, Florida Statutes, is amended to read:

264 |       190.008 Budget; reports and reviews.--

265 |       (2) (a) On or before each June ~~July~~ 15, the district  
 266 | manager shall prepare a proposed budget for the ensuing fiscal  
 267 | year to be submitted to the board for board approval. The  
 268 | proposed budget shall include at the direction of the board an  
 269 | estimate of all necessary expenditures of the district for the  
 270 | ensuing fiscal year and an estimate of income to the district  
 271 | from the taxes, ~~and~~ assessments, and other revenues provided in  
 272 | this act. The board shall consider the proposed budget item by  
 273 | item and may either approve the budget as proposed by the  
 274 | district manager or modify the same in part or in whole. The  
 275 | board shall indicate its approval of the budget by resolution,  
 276 | which resolution shall provide for a hearing on the budget as  
 277 | approved. Notice of the hearing on the budget shall be published  
 278 | in a newspaper of general circulation in the area of the  
 279 | district once a week for 2 consecutive weeks, except that the  
 280 | first publication shall be not fewer than 15 days prior to the

281 date of the hearing. The notice shall further contain a  
 282 designation of the day, time, and place of the public hearing.  
 283 At the time and place designated in the notice, the board shall  
 284 hear all objections to the budget as proposed and may make such  
 285 changes as the board deems necessary. At the conclusion of the  
 286 budget hearing, the board shall, by resolution, adopt the budget  
 287 as finally approved by the board. The budget shall be adopted  
 288 prior to October 1 of each year.

289 Section 6. Subsection (1) of section 190.009, Florida  
 290 Statutes, is amended to read:

291 190.009 Disclosure of public financing.--

292 (1) The district shall take affirmative steps to provide  
 293 for the full disclosure of information relating to the public  
 294 financing and maintenance of improvements to real property  
 295 undertaken by the district. Such information shall be made  
 296 available to all existing residents, and to all prospective  
 297 residents, of the district. The district shall furnish each  
 298 developer of a residential development within the district with  
 299 sufficient copies of that information to provide each  
 300 prospective initial purchaser of property in that development  
 301 with a copy, and any developer of a residential development  
 302 within the district, when required by law to provide a public  
 303 offering statement, shall include a copy of such information  
 304 relating to the public financing and maintenance of improvements  
 305 in the public offering statement. The district shall file the  
 306 disclosure documents required by this subsection and any  
 307 amendments thereto in the property records of each county in  
 308 which the district is located.

309 Section 7. Subsection (14) of section 190.011, Florida  
 310 Statutes, is amended to read:

311 190.011 General powers.--The district shall have, and the  
 312 board may exercise, the following powers:

313 (14) To determine, order, levy, impose, collect, and  
 314 enforce special assessments pursuant to this act and chapter  
 315 170. Such special assessments may, in the discretion of the  
 316 district, be collected and enforced pursuant to the provisions  
 317 of ss. 197.3631, 197.3632, and 197.3635~~7~~ or chapter 173 ~~170~~.

318 Section 8. Paragraph (d) of subsection (1), subsection  
 319 (2), and paragraph (a) of subsection (4) of section 190.012,  
 320 Florida Statutes, are amended, and paragraph (h) is added to  
 321 subsection (1) of that section, to read:

322 190.012 Special powers; public improvements and community  
 323 facilities.--The district shall have, and the board may  
 324 exercise, subject to the regulatory jurisdiction and permitting  
 325 authority of all applicable governmental bodies, agencies, and  
 326 special districts having authority with respect to any area  
 327 included therein, any or all of the following special powers  
 328 relating to public improvements and community facilities  
 329 authorized by this act:

330 (1) To finance, fund, plan, establish, acquire, construct  
 331 or reconstruct, enlarge or extend, equip, operate, and maintain  
 332 systems, facilities, and basic infrastructures for the  
 333 following:

334 (d)1. District roads equal to or exceeding the applicable  
 335 specifications of the county in which such district roads are  
 336 located, roads and improvements to existing public roads that

HB 1491

2007

337 are owned by or conveyed to the local general-purpose  
338 government, the state, or the Federal Government, street lights,  
339 landscaping, hardscaping, and the undergrounding of electric  
340 utility lines. The district may convey undergrounding of  
341 electric utility lines to the retail electric utility provider  
342 within the district and street lights.

343 2. Buses, trolleys, transit shelters, ridesharing  
344 facilities and services, parking improvements, and related  
345 signage.

346 (h) Any other project, facility, or service required by a  
347 development approval, zoning condition, or permit issued by a  
348 governmental authority with jurisdiction in the district.

349 ~~(2) After the board has obtained the consent of the local~~  
350 ~~general-purpose government within the jurisdiction of which a~~  
351 ~~power specified in this subsection is to be exercised~~ consents  
352 to the exercise of such power by the district, the district  
353 shall have the power to plan, establish, acquire, construct or  
354 reconstruct, enlarge or extend, equip, operate, and maintain  
355 additional systems and facilities for:

356 (a) Parks and facilities for indoor and outdoor  
357 recreational, cultural, and educational uses.

358 (b) Fire prevention and control, including fire stations,  
359 water mains and plugs, fire trucks, and other vehicles and  
360 equipment.

361 (c) School buildings and related structures and site  
362 improvements, which may be leased, sold, or donated to the  
363 school district, for use in the educational system when  
364 authorized by the district school board.

HB 1491

2007

365 (d) Security, including, but not limited to, guardhouses,  
366 fences and gates, electronic intrusion-detection systems, and  
367 patrol cars, when authorized by proper governmental agencies;  
368 except that the district may not exercise any police power, but  
369 may contract with the appropriate local general-purpose  
370 government agencies for an increased level of such services  
371 within the district boundaries.

372 (e) Control and elimination of mosquitoes and other  
373 arthropods of public health importance.

374 (f) Waste collection and disposal.

375 (4) (a) To adopt rules necessary for the district to  
376 enforce certain deed restrictions pertaining to the use and  
377 operation of real property within the district or outside the  
378 district if pursuant to an interlocal agreement under chapter  
379 163. For the purpose of this subsection, "deed restrictions" are  
380 those covenants, conditions, and restrictions contained in any  
381 applicable declarations of covenants and restrictions that  
382 govern the use and operation of real property within the  
383 district and, for which covenants, conditions, and restrictions,  
384 there is no homeowners' association or property owner's  
385 association having respective enforcement powers. The district  
386 may adopt by rule all or certain portions of the deed  
387 restrictions that:

388 1. Relate to limitations or prohibitions that apply only  
389 to external structures and are deemed by the district to be  
390 generally beneficial for the district's landowners and for which  
391 enforcement by the district is appropriate, as determined by the  
392 district's board of supervisors; or

HB 1491

2007

393 2. Are consistent with the requirements of a development  
 394 order or regulatory agency permit.

395 Section 9. Section 190.014, Florida Statutes, is amended  
 396 to read:

397 190.014 Issuance of bond anticipation notes.--In addition  
 398 to the other powers provided for in this act, and not in  
 399 limitation thereof, the district shall have the power, at any  
 400 time, and from time to time after the issuance of any bonds of  
 401 the district shall have been authorized, to borrow money for the  
 402 purposes for which such bonds are to be issued in anticipation  
 403 of the receipt of the proceeds of the sale of such bonds and to  
 404 issue bond anticipation notes in a principal sum not in excess  
 405 of the authorized maximum amount of such bond issue. Such notes  
 406 shall be in such denomination or denominations, bear interest at  
 407 such rate as the board may determine in compliance with s.  
 408 215.84, mature at such time or times not later than 5 years from  
 409 the date of issuance, and be in such form and executed in such  
 410 manner as the board shall prescribe. Such notes may be sold at  
 411 either public or private sale or, if such notes shall be renewal  
 412 notes, may be exchanged for notes then outstanding on such terms  
 413 as the board shall determine. Such notes shall be paid from the  
 414 proceeds of such bonds when issued. The board may, in its  
 415 discretion, in lieu of retiring the notes by means of bonds,  
 416 retire them by means of current revenues or from any taxes or  
 417 assessments levied for the payment of such bonds; but in such  
 418 event a like amount of the bonds authorized shall not be issued.  
 419 Non-ad valorem assessments levied to pay interest on bond  
 420 anticipation notes shall not constitute an installment of

421 assessments under s. 190.022.

422 Section 10. Subsections (2), (3), and (9) of section  
 423 190.021, Florida Statutes, are amended to read:

424 190.021 Taxes; non-ad valorem assessments.--

425 (2) BENEFIT SPECIAL ASSESSMENTS.--The board shall annually  
 426 determine, order, and levy the annual installment of the total  
 427 benefit special assessments for bonds issued and related  
 428 expenses to finance district facilities and projects which are  
 429 levied under this act. These assessments may be due and  
 430 collected during each year that county taxes are due and  
 431 collected, in which case such annual installment and levy shall  
 432 be evidenced to and certified to the property appraiser by the  
 433 board not later than August 31 of each year, and such assessment  
 434 shall be entered by the property appraiser on the county tax  
 435 rolls, and shall be collected and enforced by the tax collector  
 436 in the same manner and at the same time as county taxes, and the  
 437 proceeds thereof shall be paid to the district. However, this  
 438 subsection shall not prohibit the district in its discretion  
 439 from using the method prescribed in either s. 197.363 or s.  
 440 197.3632 for collecting and enforcing these assessments. Notice  
 441 of the proposed amount of the assessment pursuant to s. 197.3635  
 442 that includes the date and time of the hearing may be used in  
 443 lieu of the notice provisions of s. 197.3632(4)(b). These  
 444 benefit special assessments shall be a lien on the property  
 445 against which assessed until paid and shall be enforceable in  
 446 like manner as county taxes. The amount of the assessment for  
 447 the exercise of the district's powers under ss. 190.011 and  
 448 190.012 shall be determined by the board based upon a report of



449 the district's engineer and assessed by the board upon such  
 450 lands, which may be part or all of the lands within the district  
 451 benefited by the improvement, apportioned between benefited  
 452 lands in proportion to the benefits received by each tract of  
 453 land.

454 (3) MAINTENANCE SPECIAL ASSESSMENTS.--To maintain and  
 455 preserve the facilities and projects of the district, the board  
 456 may levy a maintenance special assessment. This assessment may  
 457 be evidenced to and certified to the property appraiser by the  
 458 board of supervisors not later than August 31 of each year and  
 459 shall be entered by the property appraiser on the county tax  
 460 rolls and shall be collected and enforced by the tax collector  
 461 in the same manner and at the same time as county taxes, and the  
 462 proceeds therefrom shall be paid to the district. However, this  
 463 subsection shall not prohibit the district in its discretion  
 464 from using the method prescribed in either s. 197.363 or s.  
 465 197.3632 for collecting and enforcing these assessments. Notice  
 466 of the proposed amount of the assessment pursuant to s. 197.3635  
 467 that includes the date and time of the hearing may be used in  
 468 lieu of the notice provisions of s. 197.3632(4)(b). These  
 469 maintenance special assessments shall be a lien on the property  
 470 against which assessed until paid and shall be enforceable in  
 471 like manner as county taxes. The amount of the maintenance  
 472 special assessment for the exercise of the district's powers  
 473 under ss. 190.011 and 190.012 shall be determined by the board  
 474 based upon a report of the district's engineer and assessed by  
 475 the board upon such lands, which may be all of the lands within  
 476 the district benefited by the maintenance thereof, apportioned

HB 1491

2007

477 between the benefited lands in proportion to the benefits  
 478 received by each tract of land.

479 (9) ASSESSMENTS CONSTITUTE LIENS; COLLECTION.--Benefit  
 480 special assessments and maintenance special assessments  
 481 authorized by this section, and special assessments authorized  
 482 by s. 190.022 and chapter 170, shall constitute a lien on the  
 483 property against which assessed from the date of imposition  
 484 thereof until paid, coequal with the lien of state, county,  
 485 municipal, and school board taxes. These non-ad valorem  
 486 assessments may be collected, at the district's discretion, by  
 487 the tax collector pursuant to the provisions of s. 197.363 or s.  
 488 197.3632, or in accordance with other collection measures  
 489 provided by law.

490 Section 11. Subsections (1) and (3) of section 190.033,  
 491 Florida Statutes, are amended to read:

492 190.033 Bids required.--

493 (1) No contract shall be let by the board for any goods,  
 494 supplies, or materials to be purchased when the amount thereof  
 495 to be paid by the district shall exceed the amount provided in  
 496 s. 287.017 for category four, unless notice of bids or other  
 497 competitive solicitation, including requests for proposals or  
 498 qualifications, is ~~shall be~~ advertised once in a newspaper in  
 499 general circulation in the county and in the district. Any board  
 500 seeking to construct or improve a public building, structure, or  
 501 other public works shall comply with the bidding procedures of  
 502 s. 255.20 and other applicable general law. In each case, the  
 503 bid of the lowest responsive and responsible bidder shall be  
 504 accepted unless all bids are rejected because the bids are too

505 high, or the board determines it is in the best interests of the  
 506 district to reject all bids. In each case in which requests for  
 507 proposals, qualifications, or other competitive solicitations  
 508 are used, the district shall determine which response is most  
 509 advantageous for the district and award the contract to that  
 510 proposer. The board may require the bidders or proposers to  
 511 furnish bond with a responsible surety to be approved by the  
 512 board. If the district does not receive a response to its  
 513 competitive solicitation, the district may proceed to purchase  
 514 such goods, supplies, materials, or construction services in the  
 515 manner it deems in the best interests of the district. Nothing  
 516 in this section shall prevent the board from undertaking and  
 517 performing the construction, operation, and maintenance of any  
 518 project or facility authorized by this act by the employment of  
 519 labor, material, and machinery.

520 (3) Contracts for maintenance services for any district  
 521 facility or project shall be subject to competitive solicitation  
 522 ~~bidding~~ requirements when the amount thereof to be paid by the  
 523 district exceeds the amount provided in s. 287.017 for category  
 524 four. The district shall adopt rules, policies, or procedures  
 525 establishing competitive solicitation ~~bidding~~ procedures for  
 526 maintenance services. Contracts for other services shall not be  
 527 subject to competitive solicitation ~~bidding~~ unless the district  
 528 adopts a rule, policy, or procedure applying competitive  
 529 solicitation ~~bidding~~ procedures to said contracts.

530 Section 12. Subsection (1) of section 190.046, Florida  
 531 Statutes, is amended to read:

532           190.046 Termination, contraction, or expansion of  
 533 district.--

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

537           (a) The petition shall contain the same information  
 538 required by s. 190.005(1)(a)1. and 8. In addition, if the  
 539 petitioner seeks to expand the district, the petition shall  
 540 describe the proposed timetable for construction of any district  
 541 services to the area, the estimated cost of constructing the  
 542 proposed services, and the designation of the future general  
 543 distribution, location, and extent of public and private uses of  
 544 land proposed for the area by the future land use plan element  
 545 of the adopted local government local comprehensive plan. If the  
 546 petitioner seeks to contract the district, the petition shall  
 547 describe what services and facilities are currently provided by  
 548 the district to the area being removed, and the designation of  
 549 the future general distribution, location, and extent of public  
 550 and private uses of land proposed for the area by the future  
 551 land element of the adopted local government comprehensive plan.

552           (b) For those districts initially established by county  
 553 ordinance, the petition for ordinance amendment shall be filed  
 554 with the county commission. If the land to be included or  
 555 excluded is, in whole or in part, within the boundaries of a  
 556 municipality, then the county commission shall not amend the  
 557 ordinance without municipal approval. A public hearing shall be  
 558 held in the same manner and with the same public notice as other  
 559 ordinance amendments. The county commission shall consider the

560 record of the public hearing and the factors set forth in s.  
 561 190.005(1)(e) in making its determination to grant or deny the  
 562 petition for ordinance amendment.

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

570 (d)1. For those districts initially established by  
 571 administrative rule pursuant to s. 190.005(1), the petition  
 572 shall be filed with the Florida Land and Water Adjudicatory  
 573 Commission.

574 2. Prior to filing the petition, the petitioner shall pay  
 575 a filing fee of \$1,500 to the county, if the district or the  
 576 land to be added to or deleted from the district is located  
 577 within an unincorporated area, or to the municipality, if the  
 578 district or the land to be added to or deleted from the district  
 579 is located within an incorporated area, and to each municipality  
 580 the boundaries of which are contiguous with or contain all or a  
 581 portion of the land to be added to or deleted from the external  
 582 boundaries of ~~within~~ the district. The petitioner shall submit a  
 583 copy of the petition to the same entities entitled to receive  
 584 the filing fee ~~or the proposed amendment, and submit a copy of~~  
 585 ~~the petition to the county and to each such municipality.~~ In  
 586 addition, if the district is not the petitioner, the petitioner  
 587 shall file the petition with the district board of supervisors.

588           3. Each ~~The~~ county and each municipality shall have the  
 589 option of holding a public hearing as provided by s.  
 590 190.005(1)(c). However, such public hearing shall be limited to  
 591 consideration of the contents of the petition and whether the  
 592 petition for amendment should be supported by the county or  
 593 municipality.

594           4. The district board of supervisors shall, in lieu of a  
 595 hearing officer, hold the local public hearing provided for by  
 596 s. 190.005(1)(d). This local public hearing shall be noticed in  
 597 the same manner as provided in s. 190.005(1)(d). Within 45 days  
 598 of the conclusion of the hearing, the district board of  
 599 supervisors shall transmit to the Florida Land and Water  
 600 Adjudicatory Commission the full record of the local hearing,  
 601 the transcript of the hearing, any resolutions adopted by the  
 602 local general-purpose governments, and its recommendation  
 603 whether to grant the petition for amendment. The commission  
 604 shall then proceed in accordance with s. 190.005(1)(e).

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

607           ~~(e) In all cases, written consent of all the landowners  
 608 whose land is to be added to or deleted from the district shall  
 609 be required. The filing of the petition for expansion or  
 610 contraction by the district board of supervisors shall  
 611 constitute consent of the landowners within the district other  
 612 than of landowners whose land is proposed to be added to or  
 613 removed from the district.~~

614           (e) ~~(f)~~1. During the existence of a district initially  
 615 established by administrative rule, the process ~~petitions~~ to

HB 1491

2007

616 amend the boundaries of the district pursuant to paragraphs (a) -  
 617 (d) ~~(a)-(e)~~ shall not exceed ~~be limited to~~ a cumulative net  
 618 total of ~~no more than~~ 10 percent of the land in the initial  
 619 district, and in no event exceed ~~shall all such petitions to~~  
 620 ~~amend the boundaries ever encompass more than a total of 250~~  
 621 acres on a cumulative net basis.

622 2. During the existence of a district ~~For districts~~  
 623 initially established by county or municipal ordinance, the  
 624 limitation provided by this paragraph shall not exceed ~~be~~ a  
 625 cumulative net total of ~~no more than~~ 50 percent of the land in  
 626 the initial district, and in no event exceed ~~shall all such~~  
 627 ~~petitions to amend the boundaries ever encompass more than a~~  
 628 ~~total of 500 acres~~ on a cumulative basis.

629 3. ~~Boundary expansions for districts initially established~~  
 630 ~~by county or municipal ordinance shall follow the procedure set~~  
 631 ~~forth in paragraph (b) or paragraph (c).~~

632 (f) ~~(g)~~ Petitions to amend the boundaries of the district  
 633 which exceed the amount of land specified in paragraph (e) ~~(f)~~  
 634 shall be considered petitions to establish a new district, and  
 635 shall follow all of the procedures specified in s.  
 636 190.005(1)(a)1., 5., 6., 7., and 8., and shall follow the  
 637 process set forth in s. 190.005 for establishment of a new  
 638 district. However, the resulting administrative rule or  
 639 ordinance shall only have the effect of amending the boundary of  
 640 the district and shall not serve to establish a new district or  
 641 cause a new 6-year or 10-year period to begin pursuant to s.  
 642 190.006(3)(a)2.

HB 1491

2007

643        (g) In all cases of any petition to amend the boundaries  
644 of the district, the filing of the petition for expansion or  
645 contraction by the district board of supervisors shall  
646 constitute consent of the landowners within the district, with  
647 the exception of those landowners whose land is to be added to  
648 or deleted from the district. In all cases of any petition to  
649 amend the boundaries of the district, the written consent of  
650 those landowners whose land is to be added to or deleted from  
651 the district shall be required.

652        Section 13. Subsection (1) of section 190.047, Florida  
653 Statutes, is amended to read:

654        190.047 Incorporation or annexation of district.--

655        (1) Upon attaining the population standards for  
656 incorporation contained in s. 165.061 and as determined by the  
657 Department of Community Affairs, any district wholly contained  
658 within the unincorporated area of a county that also meets the  
659 other requirements for incorporation contained in s. 165.061  
660 shall hold a referendum at a general election on the question of  
661 whether to incorporate. However, any district contiguous to the  
662 boundary of a municipality may be annexed to such municipality  
663 pursuant to the provisions of chapter 171.

664        Section 14. Except as otherwise expressly provided in this  
665 act, this act shall take effect July 1, 2007.