

By Senator Baker

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1 A bill to be entitled
2 An act relating to special districts; providing
3 legislative intent; declaring that it is the policy of the
4 state to codify the charter of each independent and
5 dependent special district every 10 years; requiring each
6 governmental entity that creates an independent or
7 dependent special district to be responsible for the
8 subsequent examination of the charter; providing for the
9 periodic codification of the charter; providing criteria
10 for determining the performance of an independent or
11 dependent special district; requiring that the Legislature
12 dispose of the assets of a special district it abolishes
13 and assign the district's powers and duties; requiring
14 that the Department of Community Affairs confirm any
15 recommendation by a local governmental entity to abolish a
16 special district; requiring that the assets, powers, and
17 duties of the special district be transferred to the
18 county or counties in which the special district operates;
19 requiring each dependent and independent special district
20 to pay the costs of conducting the subsequent examination;
21 requiring that the examination be conducted by an outside
22 auditor in certain circumstances; providing the schedule
23 of special district codifications; providing procedures
24 with respect to newly created districts, to districts that
25 appear in more than one function classification, and to
26 districts the codification of which was inadvertently
27 omitted; creating s. 218.395, F.S.; providing liability of
28 a special district officer or board member when an audit
29 shows that the officer or member is responsible for

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30 financial loss by the special district through
31 misfeasance, malfeasance, or nonfeasance; providing that
32 the special district has a cause of action against the
33 officer or member for recovery of its loss; providing an
34 effective date.

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36 Be It Enacted by the Legislature of the State of Florida:

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38 Section 1. It is the intent of the Legislature that the
39 charters of all dependent and independent special districts in
40 this state be codified under chapter 189, Florida Statutes, every
41 10 years in order to conform their charters to current law and
42 ensure their effectiveness and usefulness to the people of this
43 state. The Legislature recognizes that not all special districts
44 are creations of the Legislature. However, the Legislature
45 determines that all dependent and independent special districts
46 must be subject to review if this examination is to have the
47 intended effect.

48 Section 2. The governmental entity that created a dependent
49 or independent special district is the entity responsible for its
50 subsequent examination. In conducting its examination, the
51 governmental entity must determine:

52 (1) The services provided by the special district.

53 (2) The degree to which the services delivered by the
54 special district are needed.

55 (3) Whether the special district is delivering services in
56 the most cost-effective manner.

57 (4) Whether the services delivered by the special district
58 duplicates service delivered by a governmental entity.

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59 (5) Whether the persons administering the special district
60 have demonstrated an appropriate degree of stewardship and fiscal
61 responsibility over the public moneys received by the district.

62 Section 3. To carry out the examination of dependent and
63 independent special districts, all special district charters
64 shall be codified according to the schedule in section 4.

65 (1) Each September 1, the agency that created the special
66 district must certify to the Department of Community Affairs
67 those special district charters that are to be codified on
68 October 1 of the following year.

69 (2) (a) If a dependent or independent special district was
70 created by the Legislature, the certification must be made by the
71 Legislature. The Legislature shall review each such special
72 district charter and may revive, revive with modifications in
73 structure or powers, or both, or abolish the charter. If the
74 Legislature abolishes the special district charter, it must
75 dispose of the assets of the special district and assign its
76 powers and duties to a governmental entity, which may be an
77 entity of local government, a state agency, or another special
78 district.

79 (b) If a dependent or independent special district was
80 created by an entity of local government, the certification must
81 be made by that entity. The entity shall review each such special
82 district charter and may recommend that the charter be revived,
83 revived with modifications in structure or powers, or both, or
84 abolished. If an entity of local government recommends abolishing
85 a special district, upon confirmation by the Department of
86 Community Affairs, the local governmental entity shall assume the
87 assets, powers, and duties of the special district. If a

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88 governmental entity fails to examine the special district charter
89 and to revive or abolish it, it is presumed that the governmental
90 entity has recommended abolishing the special district and, upon
91 confirmation of the Department of Community Affairs, the special
92 district is abolished and its assets, powers, and duties shall be
93 transferred to the county in which the special district operates.
94 If the special district operates in more than one county, the
95 assets shall be transferred to the counties pro rata according to
96 the proportion of the special district within each county.

97 (3) Each dependent or independent special district must pay
98 the costs associated with conducting the subsequent examination.
99 If a member of the governmental entity that created the special
100 district sits on the governing board of the special district, the
101 governmental entity may not conduct the subsequent examination,
102 but must employ an outside auditor to conduct the subsequent
103 examination. If the dependent or independent special district
104 does not hire an outside auditor or does not pay for the audit,
105 the special district is abolished.

106 Section 4. The classifications in this section refer to the
107 classifications in the Special Districts Function Index
108 maintained by the Department of Community Affairs. The charters
109 of special districts in the following function classifications
110 are abolished in the years indicated:

111 (1) October 1, 2009: Affordable Housing, Airport/Aviation,
112 Aquatic Plant Control, Arts, Beach and Shore Beautification,
113 Civic Center, Conservation and Erosion, Environmental Protection,
114 Historic Preservation, Inlet Maintenance, Library, Neighborhood
115 Improvement, Recreation/Parks, Sports, and Transportation.

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116 (2) October 1, 2010: Community Development, Community
117 Redevelopment, County Development, Downtown Development, Economic
118 Development, and Industrial Development in Alachua, Baker, Bay,
119 Bradford, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay,
120 Collier, Columbia, DeSoto, Dixie, Duval, Escambia, and Flagler
121 Counties.

122 (3) October 1, 2011: Community Development, Community
123 Redevelopment, County Development, Downtown Development, Economic
124 Development, and Industrial Development in Franklin, Gadsden,
125 Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando,
126 Highlands, Hillsborough, Holmes, Indian River, Jackson,
127 Jefferson, Lafayette, Lake, and Lee Counties.

128 (4) October 1, 2012: Community Development, Community
129 Redevelopment, County Development, Downtown Development, Economic
130 Development, and Industrial Development in Leon, Levy, Liberty,
131 Madison, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa,
132 Okeechobee, and Orange Counties.

133 (5) October 1, 2013: Community Development, Community
134 Redevelopment, County Development, Downtown Development, Economic
135 Development, and Industrial Development in Osceola, Palm Beach,
136 Pasco, Pinellas, and Polk Counties.

137 (6) October 1, 2014: Community Development, Community
138 Redevelopment, County Development, Downtown Development, Economic
139 Development, and Industrial Development in Putnam, Santa Rosa,
140 Sarasota, Seminole, St. Johns, St. Lucie, Sumter, Suwannee,
141 Taylor, Union, Volusia, Wakulla, Walton, and Washington Counties.

142 (7) October 1, 2015: Children/Welfare, Emergency Medical
143 Services, Fire Control and Rescue, Health Care, Health
144 Facilities, Hospital, Juvenile Welfare, and Nursing Home.

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145 (8) October 1, 2016: Housing Authority, Housing Finance,
146 Information Systems, Infrastructure Provision, Lighting, Mobile
147 Home Parks, Planning and Zoning, Solid Waste, Utility, and
148 Wastewater Treatment.

149 (9) October 1, 2017: Capital Finance, Distribution
150 Pipelines, Education/Research/Training, Educational Facilities
151 (Higher), Educational Facilities Benefit, Expressways and
152 Bridges, Mosquito Control, Municipal Services/Improvements,
153 Parking, Personnel, Research and Development, Soil and Water
154 Conservation, and Subdivision.

155 (10) October 1, 2018: Navigation, Port, Water Control,
156 Water Management, Water Supply, and Water and Sewer.

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158 If any special district is included in more than one
159 classification and those classifications are scheduled to be
160 certified in different years, the governmental entity shall
161 codify the district charter in the later of those years. If a
162 special district is created after July 1, 2008, and would,
163 according to the schedule in this section, be subject to
164 examination in less than 3 years, the governmental entity may not
165 codify that district charter at that time but wait until the next
166 ensuing time for codification in that function classification. If
167 the governmental entity fails to codify a district charter
168 according to the schedule in this section, it shall codify the
169 district charter on the September 1 following the discovery of
170 the omission. Each charter of each district codified with or
171 without modifications must be reexamined every 10 years following
172 its initial examination.

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173 Section 5. Section 218.395, Florida Statutes, is created to
174 read:

175 218.395 Certain officers; responsibility for audit
176 findings.--If a special district audit conducted by the Auditor
177 General or by a certified public accountant under s. 218.39
178 determines that an officer or member of the governing body of a
179 district has, through misfeasance, malfeasance, or nonfeasance,
180 been responsible for a financial loss by the district, the
181 officer or member is responsible for the amount of the loss and
182 the district has a cause of action against the officer or member
183 for its recovery.

184 Section 6. This act shall take effect July 1, 2008.