



195778

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: WD	.	
4/8/2008	.	
	.	
	.	

---

1 The Committee on Banking and Insurance (Bennett) recommended the  
 2 following **amendment**:

**Senate Amendment (with title amendment)**

5 Between lines 4063 and 4064,  
6 insert:

7 Section 73. Subsection (2) of section 190.012, Florida  
8 Statutes, is amended to read:

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



195778

17 (2) After the local general-purpose government within the  
18 jurisdiction of which a power specified in this subsection is to  
19 be exercised consents to the exercise of such power by the  
20 district, the district shall have the power to plan, establish,  
21 acquire, construct or reconstruct, enlarge or extend, equip,  
22 operate, and maintain additional systems and facilities for:

23 (a) Parks and facilities for indoor and outdoor  
24 recreational, cultural, and educational uses.

25 (b) Fire prevention and control, including fire stations,  
26 water mains and plugs, fire trucks, and other vehicles and  
27 equipment.

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

32 (d) Security, including, but not limited to, guardhouses,  
33 fences and gates, electronic intrusion-detection systems, and  
34 patrol cars, when authorized by proper governmental agencies;  
35 except that the district may not exercise any police power, but  
36 may contract with the appropriate local general-purpose  
37 government agencies for an increased level of such services  
38 within the district boundaries. Security systems and facilities  
39 constructed pursuant to this section are authorized, including  
40 guardhouses, fences, and gates, which enclose or restrict access  
41 to roads. A local general-purpose government may not prohibit or  
42 revoke the exercise of the community development district's  
43 powers under this subsection after it has consented to the  
44 exercise of such powers by the community development district.

45 (e) Control and elimination of mosquitoes and other  
46 arthropods of public health importance.



195778

47 (f) Waste collection and disposal.

48 Section 74. Subsection (6) is added to section 373.413,  
49 Florida Statutes, to read:

50 373.413 Permits for construction or alteration.--

51 (6) (a) As a condition of any permit issued under this part  
52 for a stormwater management system, the applicant shall  
53 demonstrate financial responsibility for the construction of the  
54 system, or independent phase thereof, and for operation and  
55 maintenance of the system for 5 years after the system is  
56 certified by an appropriate professional in this state and the  
57 department or water management district determines that the  
58 construction or alteration has been completed and substantially  
59 conforms to the approved plans and specifications in the permit.

60 (b) The form and content of the financial responsibility  
61 mechanism shall be approved by the department or the water  
62 management district as part of permit application review. The  
63 department or water management district shall release the  
64 construction portion of the financial responsibility mechanism  
65 after the system has been certified and the department or water  
66 management district has determined that the system has been  
67 constructed in substantial compliance with the terms and  
68 conditions of the permit. The department or water management  
69 district shall release the operation and maintenance portion of  
70 the financial responsibility within 1 month after approving the  
71 transfer of the permit to the operating entity specified in the  
72 permit.

73 (c) This subsection does not limit the existing authority  
74 of the department or governing board to otherwise require a  
75 demonstration of financial responsibility for construction,



195778

76 alteration, or operation and maintenance of a stormwater  
77 management system.

78 Section 75. Section 373.436, Florida Statutes, is amended  
79 to read:

80 373.436 Remedial measures.--

81 (1) Upon completion of any inspection provided for by s.  
82 373.423(3), the executive director or the department shall  
83 determine what alterations or repairs are necessary and order  
84 that such alterations and repairs shall be made within a time  
85 certain, which shall be a reasonable time. The owner of such  
86 stormwater management system, dam, impoundment, reservoir,  
87 appurtenant work, or works may file a written petition for  
88 hearing before the governing board or the department no later  
89 than 14 days after such order is served. If, after such order  
90 becomes final, the owner shall fail to make the specified  
91 alterations or repairs, the governing board or the department  
92 may, in its discretion, cause such alterations or repairs to be  
93 made.

94 (2) Any cost to the district or the department of  
95 alterations or repairs made by it under the provisions of  
96 subsection (1) shall be a lien against the property of the  
97 landowner on whose lands the alterations or repairs are made  
98 until the governing board or department is reimbursed, with  
99 reasonable interest and attorney's fees, for its costs. If the  
100 permitted stormwater management system, dam, impoundment,  
101 reservoir, appurtenant, or work was designed to serve the  
102 property of multiple landowners, the district or department shall  
103 have a lien against each of those landowners in a proportional  
104 amount to reimburse the permitting agency for its costs.



195778

105           Section 76. Subsection (2) of section 720.303, Florida  
106 Statutes, is amended to read:

107           720.303 Association powers and duties; meetings of board;  
108 official records; budgets; financial reporting; association  
109 funds; recalls.--

110           (2) BOARD MEETINGS.--

111           (a) A meeting of the board of directors of an association  
112 occurs whenever a quorum of the board gathers to conduct  
113 association business. All meetings of the board must be open to  
114 all members except for meetings between the board and its  
115 attorney with respect to proposed or pending litigation where the  
116 contents of the discussion would otherwise be governed by the  
117 attorney-client privilege. The provisions of this subsection  
118 shall also apply to the meetings of any committee or other  
119 similar body when a final decision will be made regarding the  
120 expenditure of association funds and to meetings of any body  
121 vested with the power to approve or disapprove architectural  
122 decisions with respect to a specific parcel of residential  
123 property owned by a member of the community.

124           (b) Members have the right to attend all meetings of the  
125 board and to speak on any matter placed on the agenda by petition  
126 of the voting interests for at least 3 minutes. The association  
127 may adopt written reasonable rules expanding the right of members  
128 to speak and governing the frequency, duration, and other manner  
129 of member statements, which rules must be consistent with this  
130 paragraph and may include a sign-up sheet for members wishing to  
131 speak. Notwithstanding any other law, the requirement that board  
132 meetings and committee meetings be open to the members is  
133 inapplicable to meetings between the board or a committee and the



195778

134 association's attorney, with respect to meetings of the board  
135 held for the purpose of discussing personnel matters.

136 (c) The bylaws shall provide for giving notice to parcel  
137 owners and members of all board meetings and, if they do not do  
138 so, shall be deemed to provide the following:

139 1. Notices of all board meetings must be posted in a  
140 conspicuous place in the community at least 48 hours in advance  
141 of a meeting, except in an emergency. In the alternative, if  
142 notice is not posted in a conspicuous place in the community,  
143 notice of each board meeting must be mailed or delivered to each  
144 member at least 7 days before the meeting, except in an  
145 emergency. Notwithstanding this general notice requirement, for  
146 communities with more than 100 members, the bylaws may provide  
147 for a reasonable alternative to posting or mailing of notice for  
148 each board meeting, including publication of notice, provision of  
149 a schedule of board meetings, or the conspicuous posting and  
150 repeated broadcasting of the notice on a closed-circuit cable  
151 television system serving the homeowners' association. However,  
152 if broadcast notice is used in lieu of a notice posted physically  
153 in the community, the notice must be broadcast at least four  
154 times every broadcast hour of each day that a posted notice is  
155 otherwise required. When broadcast notice is provided, the notice  
156 and agenda must be broadcast in a manner and for a sufficient  
157 continuous length of time so as to allow an average reader to  
158 observe the notice and read and comprehend the entire content of  
159 the notice and the agenda. The bylaws or amended bylaws may  
160 provide for giving notice by electronic transmission in a manner  
161 authorized by law for meetings of the board of directors,  
162 committee meetings requiring notice under this section, and  
163 annual and special meetings of the members; however, a member



195778

164 must consent in writing to receiving notice by electronic  
165 transmission.

166         2. An assessment may not be levied at a board meeting  
167 unless the notice of the meeting includes a statement that  
168 assessments will be considered and the nature of the assessments.  
169 Written notice of any meeting at which special assessments will  
170 be considered or at which amendments to rules regarding parcel  
171 use will be considered must be mailed, delivered, or  
172 electronically transmitted to the members and parcel owners and  
173 posted conspicuously on the property or broadcast on closed-  
174 circuit cable television not less than 14 days before the  
175 meeting.

176         3. Directors may not vote by proxy or by secret ballot at  
177 board meetings, except that secret ballots may be used in the  
178 election of officers. This subsection also applies to the  
179 meetings of any committee or other similar body, when a final  
180 decision will be made regarding the expenditure of association  
181 funds, and to any body vested with the power to approve or  
182 disapprove architectural decisions with respect to a specific  
183 parcel of residential property owned by a member of the  
184 community.

185         (d) If 20 percent of the total voting interests petition  
186 the board to address an item of business, the board shall at its  
187 next regular board meeting or at a special meeting of the board,  
188 but not later than 60 days after the receipt of the petition,  
189 take the petitioned item up on an agenda. The board shall give  
190 all members notice of the meeting at which the petitioned item  
191 shall be addressed in accordance with the 14-day notice  
192 requirement pursuant to subparagraph (c)2. Each member shall have  
193 the right to speak for at least 3 minutes on each matter placed



195778

194 on the agenda by petition, provided that the member signs the  
195 sign-up sheet, if one is provided, or submits a written request  
196 to speak prior to the meeting. Other than addressing the  
197 petitioned item at the meeting, the board is not obligated to  
198 take any other action requested by the petition.

199 (e) A board member who violates the provisions of this  
200 subsection commits a noncriminal infraction, punishable by a fine  
201 not to exceed \$500. A board member who violates the provisions of  
202 this subsection a second or subsequent time commits a noncriminal  
203 infraction, punishable by a fine not to exceed \$1,000. A board  
204 member who knowingly violates the provisions of this subsection a  
205 third or subsequent time commits a misdemeanor of the first  
206 degree, punishable as provided in s. 775.082 or s. 775.083.

207 Section 77. Subsection (7) is added to section 720.304,  
208 Florida Statutes, to read:

209 720.304 Right of owners to peaceably assemble; display of  
210 flag; SLAPP suits prohibited.--

211 (7) Any parcel owner may display a sign of reasonable size  
212 advertising the sale of the parcel within the boundaries of the  
213 parcel.

214 Section 78. Subsection (4) of section 720.307, Florida  
215 Statutes, is renumbered as subsection (5), and a new subsection  
216 (4) is added to that section, to read:

217 720.307 Transition of association control in a  
218 community.--With respect to homeowners' associations:

219 (4) Prior to relinquishing control of the homeowners'  
220 association, the developer shall ensure that any stormwater  
221 management system, dam, impoundment, reservoir, appurtenant, or  
222 works meets the requirements of s. 373.413(6).





195778

223 Section 79. Section 861.01, Florida Statutes, is amended to  
224 read:

225 861.01 Obstructing highway.--Whoever obstructs any public  
226 road or established highway by fencing across or into the same or  
227 by willfully causing any other obstruction in or to such road or  
228 highway, or any part thereof, shall be guilty of a misdemeanor of  
229 the first degree, punishable as provided in s. 775.082 or s.  
230 775.083, and the judgment of the court shall also be that the  
231 obstruction be removed. This section does not apply to a security  
232 system or facility constructed pursuant to s. 190.012.

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

235 And the title is amended as follows:

236 On line 212, after the semicolon,  
237 insert:

238 amending s. 190.012, F.S.; prohibiting a local general-  
239 purpose government from prohibiting or revoking the  
240 exercise of the powers of a community development  
241 district after the local general-purpose government has  
242 consented to the exercise of such powers by the  
243 community development district; amending s. 373.413,  
244 F.S.; requiring applicants for permits to construct  
245 stormwater management systems to demonstrate financial  
246 responsibility for the construction and operation of  
247 the systems; amending s. 373.436, F.S.; providing that  
248 a lien is created against all property served by  
249 certain stormwater management systems if certain costs  
250 incurred by a water management district or the  
251 Department of Environmental Protection are not  
252 reimbursed by such landowners; amending s. 720.303,

Bill No. CS for SB's 2086 &amp; 2498



195778

253 F.S.; providing penalties for homeowners' association  
254 board members who violate certain provisions relating  
255 to the conduct of board meetings; amending s. 720.304,  
256 F.S.; allowing property owners who are members of a  
257 homeowners' association to display a "for sale" sign on  
258 their property; amending s. 720.307, F.S.; requiring  
259 developers to comply with certain permitting  
260 requirements relating to financial responsibility for  
261 the construction or alteration on stormwater management  
262 systems before relinquishing control of homeowners'  
263 associations; amending s. 861.01, F.S.; exempting  
264 certain fencing systems from a prohibition against  
265 obstructing public roads and highways;