

1 A bill to be entitled
 2 An act relating to special districts; amending s.
 3 189.4042, F.S.; revising provisions relating to merger and
 4 dissolution procedures for special districts; requiring
 5 certain merger and dissolution procedures to include
 6 referenda; providing that such provisions preempt prior
 7 special acts; providing an exception; providing for a
 8 local government to assume the indebtedness of, and
 9 receive the title to property owned by, a special district
 10 under certain circumstances; amending s. 189.4044, F.S.;
 11 revising dissolution procedures for special districts
 12 declared inactive by a governing body; repealing s.
 13 191.014(3), F.S., relating to the conditions under which
 14 the merger of independent special fire control districts
 15 with other special districts is effective and the
 16 conditions under which a merged district is authorized to
 17 increase ad valorem taxes; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Section 189.4042, Florida Statutes, is amended
 22 to read:

23 189.4042 Merger and dissolution procedures.—

24 (1) (a) The merger or dissolution of dependent special
 25 districts may be effectuated by an ordinance of the general-
 26 purpose local governmental entity wherein the geographical area
 27 of the district or districts is located. However, a county may
 28 not dissolve a special district that is dependent to a

29 municipality or vice versa, or a dependent district created by
 30 special act.

31 (b) A copy of any ordinance and of any changes to a
 32 charter affecting the status or boundaries of one or more
 33 special districts shall be filed with the Special District
 34 Information Program within 30 days of such activity.

35 (2) (a) Merger or dissolution of a dependent special
 36 district.—Unless otherwise provided by general law, the merger
 37 or dissolution of ~~an independent special district or~~ a dependent
 38 special district created and operating pursuant to a special act
 39 may only be effectuated by the Legislature ~~unless otherwise~~
 40 ~~provided by general law.~~

41 (b) Involuntary dissolution of an independent special
 42 district created by the Legislature.—If a local general-purpose
 43 government seeks to dissolve an active independent special
 44 district created and operating pursuant to a special act whose
 45 board objects by resolution to the dissolution, the dissolution
 46 of the active independent special district is not effective
 47 until a special act of the Legislature is approved by a majority
 48 of the resident electors of the district or landowners voting in
 49 the same manner by which the independent special district's
 50 governing board is elected. This paragraph also applies if an
 51 independent special district's governing board elects to
 52 dissolve the district by less than a supermajority vote of the
 53 board.

54 (c) Involuntary merger of an independent special district
 55 created by the Legislature.—If a local general-purpose
 56 government seeks to merge an active independent special district

57 created and operating pursuant to a special act whose board
58 objects by resolution to the merger with the local general-
59 purpose government, a separate local general-purpose government,
60 or an independent special district or districts, hereinafter
61 called "the impacted local government," the merger of the active
62 independent special district is not effective until a plan of
63 merger that addresses transition issues such as the effective
64 date of the merger, governance, administration, powers,
65 pensions, and assumption of all assets and liabilities is
66 approved by the impacted local government, the independent
67 special district, and the Legislature and the special act of the
68 Legislature is approved at separate referendums of the impacted
69 local government and the independent special district by a
70 majority of the resident electors or landowners voting in the
71 same manner by which the independent special district's
72 governing board is elected.

73 (d) Voluntary merger of independent special districts
74 created by the Legislature.—Two independent special districts
75 with similar functions and elected governing boards may elect to
76 merge into one independent special district that is created
77 through the act of the existing independent special district,
78 hereinafter called "the merged district," pursuant to the
79 following procedure:

80 1. The governing body of each independent special district
81 must adopt a resolution providing for a plan of merger that
82 addresses transition issues such as the effective date of the
83 merger, administration, the assumption of all assets and
84 liabilities by the merged district, and the referendum question

CS/CS/HB 1095

2010

85 to be presented for approval. The resolutions must be adopted at
86 least 3 months before any general election or special election
87 on the subject. Upon notification to the supervisor of elections
88 of the applicable county of the adoption of the resolutions by
89 each independent special district, the supervisor of elections
90 shall schedule separate referendums for each district. The
91 referendums shall be held pursuant to the Florida Election Code
92 and may be held pursuant to ss. 101.6101-101.6107. All costs of
93 the referendums shall be borne by each of the participating
94 independent special districts. Upon majority approval of the
95 referendums by the qualified electors of each of the independent
96 special districts in separate votes, the merged district shall
97 be created. Upon the receipt of approval of the referendums by a
98 majority of the resident electors or landowners in each of the
99 independent special districts voting in the same manner by which
100 each district's governing board is elected, the two districts
101 shall merge upon the effective date provided for in the adopted
102 merger plan, and all assets and liabilities of the districts
103 shall transfer to the merged district upon such effective date.
104 Each independent special district shall be considered a subunit
105 of the merged district.

106 2. Until such time as a unified charter is approved by the
107 Legislature, the merged district shall be limited in its powers
108 and financing capabilities within each subunit to those powers
109 that existed within the boundaries of each subunit that were
110 previously granted to the associated special district by its
111 special acts prior to the merger. The merged district may not,
112 solely by reason of the merger, increase its powers or financing

113 capability. The intent is to preserve and transfer all authority
114 to the merged district within each subunit that was previously
115 granted by the Legislature and, if applicable, approved by
116 referendum.

117 3. Until such time as a unified charter is approved by the
118 Legislature, the merged district shall only exercise the
119 legislative authority to levy and collect revenues within the
120 boundaries of each subunit that were previously granted to the
121 associated special district by its special acts, including the
122 ability to levy non-ad valorem assessments, ad valorem millage,
123 impact fees, and charges. The intent is to preserve and transfer
124 all authority to the merged district to levy ad valorem taxes
125 upon the property within each subunit up to the millage rate,
126 and non-ad valorem assessments, if applicable, that were
127 previously approved by referendum. The merged district may not,
128 solely by reason of the merger, increase ad valorem taxes on
129 property within the original limits of a subunit beyond the
130 maximum ad valorem rate approved by the electors of the
131 associated special district. For purposes of s. 2, Art. VII of
132 the State Constitution, each subunit may be considered a
133 separate taxing unit. The merged district may only levy an ad
134 valorem millage rate within a subunit, if applicable, up to the
135 millage rate that was previously approved by the electors of the
136 associated special district unless an increase in the millage
137 rate is approved pursuant to state law. The merged district may
138 not, solely by reason of the merger, charge non-ad valorem
139 assessments, impact fees, or other new fees within a subunit
140 that were not otherwise previously authorized to be charged.

141 4. From the effective date of the merger and until the
142 next general election, the merged district's governing board
143 shall be comprised of the governing board members of each
144 associated special district, with such members serving until the
145 governing board members who are elected at the next general
146 election take office. Beginning with the next general election
147 following the effective date of the merger, the merged
148 district's governing board shall be comprised of five members,
149 with the office of each member of the board being designated as
150 a seat on the board distinguished from each of the other seats
151 by a numeral: 1, 2, 3, 4, or 5. The governing board members
152 initially elected in the general elections following the
153 effective date of the merger shall serve unequal terms of 2 and
154 4 years in order to create staggered membership of the governing
155 board, with seats 1, 3, and 5 being designated for 4-year terms
156 and seats 2 and 4 being designated for 2-year terms. Thereafter,
157 all terms shall be for 4 years.

158 5. Within 30 days after the effective date of the merger,
159 the merged district's governing board shall hold an
160 organizational meeting and determine the name of the merged
161 district, which shall be sent to the Department of State and the
162 Department of Community Affairs.

163 6. The effective date of the merger of the independent
164 special districts shall be as provided for in the merger plan
165 and shall not be contingent upon future act of the Legislature.
166 However, as soon as practicable, the merged district shall, at
167 its expense, submit to the Legislature for approval a unified
168 charter for the merged district. The unified charter shall make

169 the powers of the district consistent within the merged district
 170 and shall also repeal the special acts of the two districts that
 171 merged.

172 (e) Costs of involuntary merger or dissolution.—The
 173 political subdivisions proposing the involuntary dissolution or
 174 merger of an active independent special district shall be
 175 responsible for payment of any expenses associated with the
 176 referendum required under paragraph (b).

177 (f) Inactive special districts.—Independent and dependent
 178 special districts that meet any criteria for being declared
 179 inactive, or that have already been declared inactive, pursuant
 180 to s. 189.4044 may be dissolved or merged by special act without
 181 a referendum.

182 (g) Dissolution of an independent special district created
 183 by a local general-purpose government.—If an inactive
 184 independent special district was created by a county or
 185 municipality through a referendum, the county or municipality
 186 that created the district may dissolve the district after
 187 publishing notice as described in s. 189.4044. If an independent
 188 special district was created by a county or municipality by
 189 referendum or any other procedure, the county or municipality
 190 that created the district may merge or dissolve the district
 191 pursuant to a referendum and any other ~~the same~~ procedure by
 192 which the independent district was created. ~~If the~~ ~~However, for~~
 193 ~~any~~ independent special district ~~that~~ has ad valorem taxation
 194 powers, the ~~same~~ procedure ~~by which the~~ ~~required to grant such~~
 195 ~~independent~~ district ~~was granted~~ ad valorem taxation powers
 196 shall also be ~~followed~~ ~~required to dissolve or merge the~~

197 ~~district.~~

198 (h) Preemption.—This subsection preempts any special act
 199 to the contrary unless a specific dissolution date of the
 200 independent district is provided in the special act.

201 (3) The government formed by merger of an existing
 202 independent special district or districts with another
 203 government shall assume all indebtedness of, and receive title
 204 to all property owned by, the preexisting independent special
 205 district or districts.

206 (4) Financial allocations of the assets and indebtedness
 207 of a dissolved independent special district shall be pursuant to
 208 s. 189.4045.

209 (5)-(3) The provisions of This section does shall not apply
 210 to community development districts implemented pursuant to
 211 chapter 190 or to water management districts created and
 212 operated pursuant to chapter 373.

213 Section 2. Subsection (4) of section 189.4044, Florida
 214 Statutes, is amended to read:

215 189.4044 Special procedures for inactive districts.—

216 (4) The entity that created a special district declared
 217 inactive under this section must dissolve the special district
 218 by repealing its enabling laws or by other appropriate means.
 219 Notwithstanding this subsection or any other section of law, if
 220 the governing body of a special district unanimously adopts a
 221 resolution declaring the district inactive pursuant to
 222 paragraphs (1)(b) and (c) and no administrative appeals were
 223 timely filed, the special district may be dissolved without a
 224 referendum. The special district shall be responsible for

CS/CS/HB 1095

2010

225 payment of any expenses associated with its dissolution.

226 Section 3. Subsection (3) of section 191.014, Florida
227 Statutes, is repealed.

228 Section 4. This act shall take effect July 1, 2010.