

By Senator Baker

20-01481-10

20101990__

1 A bill to be entitled
2 An act relating to powers of community development
3 districts; amending s. 190.011, F.S.; revising general
4 powers of community development districts; amending s.
5 190.012, F.S.; revising special powers of community
6 development districts; providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Subsection (5), paragraph (a) of subsection (7),
11 and subsections (11) and (15) of section 190.011, Florida
12 Statutes, are amended to read:

13 190.011 General powers.—The district shall have, and the
14 board may exercise, the following powers:

15 (5) To adopt rules and orders pursuant to the provisions of
16 chapter 120 prescribing the powers, duties, and functions of the
17 officers of the district; the conduct of the business of the
18 district; the maintenance of records; and the form of
19 certificates evidencing tax liens and all other documents and
20 records of the district. The board may also adopt administrative
21 rules with respect to any of the projects of the district and
22 define the area to be included therein and enforce such rules
23 pursuant to s. 190.041. The board may also adopt resolutions
24 which may be necessary for the conduct of district business.

25 (7) (a) To hold, control, and acquire by donation, purchase,
26 or eminent domain ~~condemnation~~, or dispose of, any public
27 easements, dedications to public use, platted reservations for
28 public purposes, or any reservations for those purposes
29 authorized by this act and to make use of such easements,

20-01481-10

20101990__

30 dedications, or reservations for any of the purposes authorized
31 by this act.

32 (11) To exercise within the district, or beyond the
33 district with prior approval by resolution of the governing body
34 of the county if the taking will occur in an unincorporated area
35 or with prior approval by resolution of the governing body of
36 the municipality if the taking will occur within a municipality,
37 the right and power of eminent domain, pursuant to the
38 provisions of chapters 73 and 74, over any property within the
39 state, except municipal, county, state, and federal property,
40 for the uses and purposes of the district relating ~~solely~~ to
41 water, sewer, district roads, and water management systems, and
42 any other purpose or activity authorized by law, specifically
43 including, without limitation, the power for the taking of
44 easements for the drainage of the land of one person over and
45 through the land of another.

46 (15) To exercise all of the powers necessary, convenient,
47 incidental, or proper in connection with any of the powers,
48 duties, or purposes authorized by this act and to enforce
49 pursuant to s. 190.041 such powers and rules adopted by the
50 district under such powers.

51 Section 2. Section 190.012, Florida Statutes, is amended to
52 read:

53 190.012 Special powers; public improvements and community
54 facilities.—The district shall have, and the board may exercise,
55 subject to the regulatory jurisdiction and permitting authority
56 of all applicable governmental bodies, agencies, and special
57 districts having authority with respect to any area included
58 therein, ~~any or all of~~ the following special powers relating to

20-01481-10

20101990__

59 public improvements, ~~and~~ community facilities, and any other
60 matters and activities authorized by this act:

61 (1) To finance, fund, plan, establish, acquire, construct
62 or reconstruct, enlarge or extend, equip, operate, and maintain
63 systems, facilities, and basic infrastructures for the
64 following:

65 (a) Water management and control for the lands within the
66 district and to connect some or any of such facilities with
67 roads and bridges.

68 (b) Water supply, sewer, and wastewater management,
69 reclamation, and reuse or any combination thereof, and to
70 construct and operate connecting intercepting or outlet sewers
71 and sewer mains and pipes and water mains, conduits, or
72 pipelines in, along, and under any street, alley, highway, or
73 other public place or ways, and to dispose of any effluent,
74 residue, or other byproducts of such system or sewer system.

75 (c) Bridges or culverts that may be needed across any
76 drain, ditch, canal, floodway, holding basin, excavation, public
77 highway, tract, grade, fill, or cut and roadways over levees and
78 embankments, and to construct any and all of such works and
79 improvements across, through, or over any public right-of-way,
80 highway, grade, fill, or cut.

81 (d)1. District roads equal to or exceeding the applicable
82 specifications of the county in which such district roads are
83 located; roads and improvements to existing public roads that
84 are owned by or conveyed to the local general-purpose
85 government, the state, or the Federal Government; street lights;
86 alleys; landscaping; hardscaping; and the undergrounding of
87 electric utility lines. Districts may request the underground

20-01481-10

20101990__

88 placement of utility lines by the local retail electric utility
89 provider in accordance with the utility's tariff on file with
90 the Public Service Commission and may finance the required
91 contribution.

92 2. Buses, trolleys, transit shelters, ridesharing
93 facilities and services, parking improvements, and related
94 signage.

95 (e) Investigation and remediation costs associated with the
96 cleanup of actual or perceived environmental contamination
97 within the district under the supervision or direction of a
98 competent governmental authority unless the covered costs
99 benefit any person who is a landowner within the district and
100 who caused or contributed to the contamination.

101 (f) Conservation areas, mitigation areas, and wildlife
102 habitat, including the maintenance of any plant or animal
103 species, and any related interest in real or personal property.

104 (g) Any other project within or without the boundaries of a
105 district when a local government issued a development order
106 pursuant to s. 380.06 or s. 380.061 approving or expressly
107 requiring the construction or funding of the project by the
108 district, or when the project is the subject of an agreement
109 between the district and a governmental entity and is consistent
110 with the local government comprehensive plan of the local
111 government within which the project is to be located.

112 (h) Any other project, facility, or service required by a
113 development approval, interlocal agreement, zoning condition, or
114 permit issued by a governmental authority with jurisdiction in
115 the district.

116 (2) After the local general-purpose government within the

20-01481-10

20101990__

117 jurisdiction of which a power specified in this subsection is to
118 be exercised consents to the exercise of such power by the
119 district, ~~the district shall have the power to~~ plan, establish,
120 acquire, construct or reconstruct, enlarge or extend, equip,
121 operate, and maintain additional systems and facilities for:

122 (a) Parks and facilities for indoor and outdoor
123 recreational, cultural, and educational uses.

124 (b) Fire prevention and control, including fire stations,
125 water mains and plugs, fire trucks, and other vehicles and
126 equipment.

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

131 (d) Security, including, but not limited to, guardhouses,
132 fences and gates, electronic intrusion-detection systems, and
133 patrol cars, when authorized by proper governmental agencies;
134 except that the district may not exercise any law enforcement
135 ~~police~~ power, but may contract with the appropriate local
136 general-purpose government agencies for an increased level of
137 such services within the district boundaries.

138 (e) Control and elimination of mosquitoes and other
139 arthropods of public health importance.

140 (f) Waste collection and disposal.

141 (3) To adopt pursuant to chapter 120 and enforce pursuant
142 to s. 190.041 appropriate rules ~~following the procedures of~~
143 ~~chapter 120,~~ in connection with the provision of one or more
144 services through its systems and facilities or powers authorized
145 by law.

20-01481-10

20101990__

146 (4) (a) To adopt rules necessary for the district to enforce
147 certain deed restrictions pertaining to the use and operation of
148 real property within the district and outside the district
149 pursuant to an interlocal agreement under chapter 163 if within
150 another district or, if not within another district, with the
151 consent of the county or municipality in which the deed
152 restriction enforcement is proposed to occur. For the purpose of
153 this subsection, the term "deed restrictions" means those
154 covenants, conditions, restrictions, compliance mechanisms, and
155 enforcement remedies contained in any applicable declarations of
156 covenants and restrictions that govern the use and operation of
157 real property and, for which covenants, conditions, and
158 restrictions, there is no homeowners' association or property
159 owner's association having respective enforcement powers unless,
160 with respect to a homeowners' association whose board is under
161 member control, the association and the district agree in
162 writing to enforcement by the district. The district may adopt
163 by rule all or certain portions of the deed restrictions that:

164 1. Relate to limitations, prohibitions, compliance
165 mechanisms, or enforcement remedies that apply only to external
166 appearances or uses and are deemed by the district to be
167 generally beneficial for the district's landowners and for which
168 enforcement by the district is appropriate, as determined by the
169 district's board of supervisors; or

170 2. Are consistent with the requirements of a development
171 order or regulatory agency permit.

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

174 1. The district was in existence on the effective date of

20-01481-10

20101990__

175 this subsection, or is located within a development that
176 consists of multiple developments of regional impact and a
177 Florida Quality Development.

178 2. For residential districts, the majority of the board has
179 been elected by qualified electors pursuant to the provisions of
180 s. 190.006.

181 3. For residential districts, less than 25 percent of
182 residential units are in a homeowners' association.

183 4. The declarant in any applicable declarations of
184 covenants and restrictions has provided the board with a written
185 agreement that such rules may be adopted. A memorandum of the
186 agreement shall be recorded in the public records.

187 (c) Within 60 days after such rules take effect, the
188 district shall record a notice of rule adoption stating
189 generally what rules were adopted and where a copy of the rules
190 may be obtained. Districts may impose fines for violations of
191 such rules and enforce such rules and fines in circuit court
192 through injunctive relief.

193 (d) The owners of property located outside the boundary of
194 the district shall elect an advisor to the district board
195 pursuant to paragraph (e). The sole responsibilities of the
196 district board advisor are to review enforcement actions
197 proposed by the district board against properties located
198 outside the district and make recommendations relating to those
199 proposed actions. Before the district board may enforce its
200 rules against any owner of property located outside the
201 district, the district board shall request the district board
202 advisor to make a recommendation on the proposed enforcement
203 action. The district board advisor must render a recommendation

20-01481-10

20101990__

204 within 30 days after receiving a request from the district board
205 or is deemed to have no objection to the district board's
206 proposed decision or action.

207 (e)1. Whenever an interlocal agreement is entered into
208 pursuant to paragraph (a), a district board advisor seat shall
209 be created for one elected landowner whose property is within
210 the jurisdiction of the governmental entity entering into the
211 interlocal agreement but not within the boundaries of the
212 district. The district board advisor shall be elected by
213 landowners whose land is subject to enforcement by the district
214 but whose land is not within the boundaries of the district. The
215 district board advisor shall be elected for a 2-year term. The
216 first election for a district board advisor shall be within 90
217 days after the effective date of the interlocal agreement
218 between the district and the government entity.

219 2. The election of the district board advisor shall occur
220 at a meeting of eligible landowners. The district shall publish
221 notice of the meeting and election once a week for 2 consecutive
222 weeks in a newspaper of general circulation in the area of the
223 parties to the interlocal agreement. The notice must include
224 instructions on how all landowners may participate in the
225 election and how to obtain a proxy form. The last day of
226 publication may not be less than 14 days or more than 28 days
227 before the date of the election. The landowners, when assembled
228 at the meeting, shall organize by electing a chair who shall
229 conduct the meeting. The chair may be any person present at the
230 meeting. If the chair is a landowner or proxy holder of a
231 landowner, he or she may nominate candidates and make and second
232 motions.

20-01481-10

20101990__

233 3. At the meeting, each landowner is entitled to cast one
234 vote per acre of land owned by him or her and located within the
235 district for each person to be elected. A landowner may vote in
236 person or by proxy in writing. Each proxy must be signed by one
237 of the legal owners of the property for which the vote is cast
238 and must contain the typed or printed name of the individual who
239 signed the proxy; the street address, legal description of the
240 property, or tax parcel identification number; and the number of
241 authorized votes. If the proxy authorizes more than one vote,
242 each property must be listed and the number of acres of each
243 property must be included. The signature on a proxy need not be
244 notarized. A fraction of an acre shall be treated as 1 acre,
245 entitling the landowner to one vote with respect thereto. For
246 purposes of determining voting interests, platted lots shall be
247 counted individually and rounded up to the nearest whole acre.
248 The acreage of platted lots may not be aggregated for purposes
249 of determining the number of voting units held by a landowner or
250 a landowner's proxy.

251 4. If a vacancy occurs in the district advisor seat, a
252 special landowner election shall be held within 60 days after
253 the vacancy using the notice, proxy, and acreage voting
254 provisions of this subsection.

255 Section 3. This act shall take effect July 1, 2010.