

By Senator Bennett

21-01298-10

20102322

1                   A bill to be entitled  
2           An act relating to energy improvement districts;  
3           creating s. 189.50, F.S.; providing legislative  
4           intent; providing definitions; providing for district  
5           boards; providing for board membership,  
6           qualifications, terms of office, salary, filling of  
7           vacancies, oaths of office, recordkeeping, and meeting  
8           requirements; providing financial reporting  
9           requirements; providing budget requirements; providing  
10          powers and duties of the district and board; providing  
11          an exemption from certain taxation for district assets  
12          and properties; providing public meeting, hearing, and  
13          notice requirements; authorizing certain persons to  
14          consent to be subject to a non-ad valorem assessment  
15          by written agreement; providing requirements for such  
16          agreements; providing energy savings audit  
17          requirements; providing for the filing of certain  
18          documents with the clerk of the county or  
19          municipality; providing procedures for the levy and  
20          collection of non-ad valorem assessments; authorizing  
21          a district to issue assessment bonds, revenue bonds,  
22          notes, bond anticipation notes, or other evidences of  
23          indebtedness to finance certain improvements under  
24          certain conditions; requiring districts to adopt a 5-  
25          year plan for specified purposes; requiring the  
26          district to develop an annual list of acceptable  
27          energy efficiency and renewable energy projects;  
28          providing for the creation and modification of new  
29          districts under certain conditions; providing an

21-01298-10

20102322

30 effective date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Section 189.50, Florida Statutes, is created to  
35 read:

36 189.50 Energy improvement districts.-

37 (1) LEGISLATIVE INTENT.-

38 (a) The Legislature finds that it is in the public interest  
39 to encourage mechanisms to finance renewable energy and energy  
40 efficiency improvements in light of the goals of Office of the  
41 Governor Executive Order 07-127 to reduce greenhouse gas  
42 emissions statewide. Further, the Legislature finds that the  
43 Florida Building Commission is undertaking an effort to increase  
44 the energy efficiency section of the Florida Building Code as  
45 applied to all construction in the state. The Legislature finds  
46 that renewable energy and energy efficiency projects on  
47 residential and commercial properties will reduce greenhouse  
48 gases, lower fossil fuels use, and save property owners money.  
49 The use of energy improvement districts will provide a mechanism  
50 for property owners to voluntarily finance such renewable energy  
51 and energy efficiency projects resulting in these benefits.

52 (b) It is the legislative intent and purpose, based upon  
53 and consistent with, its findings of fact and declarations of  
54 policy to authorize a uniform procedure by special act or city  
55 or local government ordinance to establish an energy improvement  
56 district as an alternative method to manage and finance  
57 renewable energy and energy efficiency projects. It is further  
58 the legislative intent and purpose to provide by special act or

21-01298-10

20102322

59 city or local government ordinance for the uniform operation,  
60 exercise of power, and procedure for termination of any such  
61 energy improvement district. It is further the purpose and  
62 intent of the Legislature that no debt or obligation of a  
63 district constitutes an obligation of the full faith and credit  
64 of any local general-purpose government.

65 (2) DEFINITIONS.—As used in this section, the term:

66 (a) "Board" means the governing board of an energy  
67 improvement district.

68 (b) "District manager" means the manager of the district.

69 (c) "Energy improvement district" or "district" means an  
70 independent special district or dependent special district, as  
71 defined in s. 189.403, created by special act or by ordinance of  
72 a city or county the purpose of which is to encourage,  
73 accommodate, and provide a source of revenue and means for  
74 financing voluntary capital improvements for renewable energy or  
75 energy efficiency projects, such as retrofitting properties or  
76 the installation of renewable or energy efficiency improvements,  
77 such as fixtures for immovable property within the district,  
78 whether such immovable property is commercial or residential.

79 (d) "Elector" means a person who is a resident of the  
80 district and is qualified to vote in a general election within  
81 the local general-purpose government or special district  
82 jurisdiction in which the district is located.

83 (e) "Energy efficiency improvement" means a material  
84 improvement made to an existing residential or commercial  
85 property that reduces energy consumption, including, but not  
86 limited to:

87 1. Caulking, weather stripping that does not exceed \$1,500,

21-01298-10

20102322

88 and air sealing.

89 2. Insulation in walls, roofs, floors, foundations, and  
90 heating and cooling distribution systems.

91 3. Heating and cooling system upgrades, automatic energy  
92 control systems, and heating, ventilating, or air conditioning  
93 and distribution system modifications or replacements in  
94 buildings or central plants.

95 4. Storm windows and doors, multiglazed windows and doors,  
96 heat-absorbing or heat-reflective glazed and coated windows and  
97 door systems, additional glazing, reductions in glass area, and  
98 other window and door system modifications that reduce energy  
99 consumption.

100 5. Replacement or modification of lighting fixtures to  
101 increase the energy efficiency of the system without increasing  
102 the overall illumination of a residential or commercial building  
103 unless such increase in illumination is necessary to conform to  
104 the applicable building code for the proposed lighting system or  
105 daylighting systems.

106 6. High efficiency water heating systems with an energy  
107 factor greater than 0.82 or a thermal efficiency of at least 90  
108 percent.

109  
110 An energy efficiency improvement does not include a household  
111 appliance such as a washing machine or refrigerator that is not  
112 permanently fixed to real property.

113 (f) "Energy cost savings" means a measured reduction in the  
114 cost of fuel, energy consumption, and stipulated operation and  
115 maintenance created from the implementation of one or more  
116 energy conservation measures when compared with an established

21-01298-10

20102322

117 baseline for the previous cost of fuel, energy consumption, and  
118 stipulated operation and maintenance consistent with chapter  
119 489.

120 (g) "Energy savings audit" means an evaluation conducted by  
121 a qualified contractor, who shall be approved by the governing  
122 board of an energy improvement district, of the energy  
123 consumption of a residential or commercial property for the  
124 purpose of identifying methods to improve energy efficiency and  
125 reduce energy waste consistent with the requirements adopted by  
126 rule pursuant to s. 366.82.

127 (h) "Local government" means a county, municipality, or  
128 special district.

129 (i) "Non-ad valorem assessment" means only those  
130 assessments that are not based upon millage and that can become  
131 a lien against a homestead as permitted in s. 4, Art. X of the  
132 State Constitution and defined by s. 197.3632(1).

133 (j) "Non-ad valorem assessment roll" means the roll  
134 prepared by a local government and certified to the tax  
135 collector for collection.

136 (k) "Qualified energy auditor" means an energy auditor  
137 meeting the requirements adopted by rule pursuant to s. 366.82.

138 (l) "Renewable energy improvement" means any fixture,  
139 product, system, device, or interacting group of devices  
140 installed behind the meter on any residential or commercial  
141 building that produces energy from renewable resources,  
142 including, but not limited to, photovoltaic systems, solar  
143 thermal systems, small wind systems, biomass systems, or  
144 geothermal systems, as may be authorized.

145 (3) DISTRICT BOARDS; MEMBERSHIP, OFFICERS, AND MEETINGS.-

21-01298-10

20102322

146 (a) The business affairs of each district shall be  
147 conducted and administered by a five-member board.

148 (b) The board shall be elected in nonpartisan elections by  
149 the electors of the district. Except as provided in this  
150 section, such elections shall be held at the time and in the  
151 manner prescribed by law for holding general elections in  
152 accordance with s. 189.405(2)(a) and (3), and each member shall  
153 be elected for a term of 4 years and serve until the member's  
154 successor assumes office. Candidates for the board shall qualify  
155 as directed by chapter 99.

156 (c) The office of each member of the board is designated as  
157 being a seat on the board, distinguished from each of the other  
158 seats by a numeral: 1, 2, 3, 4, or 5. The numerical seat  
159 designation does not designate a geographical subdistrict. Each  
160 candidate for a seat on the board shall designate, at the time  
161 the candidate qualifies, the seat on the board for which the  
162 candidate is qualifying. The name of each candidate who  
163 qualifies for election to a seat on the board shall be included  
164 on the ballot in a way that clearly indicates the seat for which  
165 the candidate is a candidate. The candidate for each seat who  
166 receives the most votes cast for a candidate for the seat shall  
167 be elected to the board. In the first election after the  
168 effective date of this section, seats 1, 3, and 5 shall be  
169 designated for 4-year terms and seats 2 and 4 shall be  
170 designated for 2-year terms. Thereafter, all terms shall be 4  
171 years each.

172 (d) Each member of the board must be a qualified elector at  
173 the time he or she qualifies and continually throughout his or  
174 her term. Any board member who ceases to be a qualified elector

21-01298-10

20102322

175 is automatically removed pursuant to this section.

176 (e) Each elected member of the board shall assume office 10  
177 days after the member's election. Annually, within 60 days after  
178 the newly elected members have taken office, the board shall  
179 organize by electing from its members a chair, a vice chair, a  
180 secretary, and a treasurer. The positions of secretary and  
181 treasurer may be held by one member. Funds of the district may  
182 be disbursed only upon the order or pursuant to resolution of  
183 the board, by warrant, or by check signed by the treasurer or  
184 other person authorized by the board. However, a petty cash  
185 account may be authorized by the board. The board may give the  
186 treasurer additional powers and duties that it deems  
187 appropriate.

188 (f) Members of the board may each be paid a salary or  
189 honorarium to be determined by at least a majority plus one vote  
190 of the board, which salary or honorarium may not exceed \$500 per  
191 month for each member. Special notice of any meeting at which  
192 the board will consider a salary change for a board member shall  
193 be published at least once, at least 14 days prior to the  
194 meeting, in a newspaper of general circulation in the county in  
195 which the district is located. Separate compensation for the  
196 board member serving as treasurer may be authorized by like vote  
197 so long as total compensation for the board member does not  
198 exceed \$500 per month. Members shall receive per diem and travel  
199 expenses as provided in s. 112.061.

200 (g) If a vacancy occurs on the board due to the  
201 resignation, death, or removal of a board member or the failure  
202 of anyone to qualify for a board seat, the remaining members may  
203 appoint a qualified person to fill the seat until the next

21-01298-10

20102322

204 general election, at which time an election shall be held to  
205 fill the vacancy for the remaining term, if any. The board shall  
206 remove any member who has three consecutive, unexcused absences  
207 from regularly scheduled meetings. The board shall adopt  
208 policies by resolution defining excused and unexcused absences.

209 (h) Each member shall, upon assuming office, take and  
210 subscribe to the oath of office prescribed by s. 5(b), Art. II  
211 of the State Constitution and s. 876.05. Each member, within 30  
212 days after assuming office, must give the Governor a good and  
213 sufficient surety bond in the sum of \$5,000, the cost thereof  
214 being borne by the district, conditioned on the member's  
215 faithful performance of his or her duties of office.

216 (i) The board shall keep a permanent record book entitled  
217 "Record of Proceedings of (name of district)," in which the  
218 minutes of all meetings, resolutions, proceedings, certificates,  
219 bonds given by commissioners, and corporate acts shall be  
220 recorded. The record book shall be open to inspection in the  
221 same manner as state, county, and municipal records are open  
222 under chapter 119 and s. 24, Art. I of the State Constitution.  
223 The record book shall be kept at the office or other regular  
224 place of business maintained by the board in the county or  
225 municipality in which the district is located.

226 (j) All meetings of the board shall be open to the public  
227 consistent with chapter 286, s. 189.417, and other applicable  
228 general laws.

229 (4) BUDGETS; REPORTS; REVIEWS AND ANNUAL REPORTING.—

230 (a) The district shall provide financial reports in such  
231 form and such manner as prescribed pursuant to this section and  
232 chapter 218. An energy improvement district that is a dependent



21-01298-10

20102322

233 special district of a county or municipality shall be treated as  
234 a department of the county or municipality.

235 (b)1. On or before each June 15, the district manager shall  
236 prepare a proposed budget for the ensuing fiscal year to be  
237 submitted to the board for board approval. The proposed budget  
238 shall include at the direction of the board an estimate of all  
239 necessary expenditures of the district for the ensuing fiscal  
240 year and an estimate of income to the district from the taxes,  
241 assessments, and other revenues provided in this section. The  
242 board shall consider the proposed budget item by item and may  
243 either approve the budget as proposed by the district manager or  
244 modify the same in part or in whole. The board shall indicate  
245 its approval of the budget by resolution, which resolution shall  
246 provide for a hearing on the budget as approved. Notice of the  
247 hearing on the budget shall be published in a newspaper of  
248 general circulation in the area of the district once a week for  
249 2 consecutive weeks, except that the first publication shall be  
250 not fewer than 15 days prior to the date of the hearing. The  
251 notice shall further contain a designation of the day, time, and  
252 place of the public hearing. At the time and place designated in  
253 the notice, the board shall hear all objections to the budget as  
254 proposed and may make such changes as the board deems necessary.  
255 At the conclusion of the budget hearing, the board shall, by  
256 resolution, adopt the budget as finally approved by the board.  
257 The budget shall be adopted prior to October 1 of each year.

258 2. At least 60 days prior to adoption, the board shall  
259 submit to the local governing authorities having jurisdiction  
260 over the area included in the district, for purposes of  
261 disclosure and information only, the proposed annual budget for

21-01298-10

20102322

262 the ensuing fiscal year and any proposed long-term financial  
263 plan or program of the district for future operations.

264 3. The local governing authorities may review the proposed  
265 annual budget and any long-term financial plan or program and  
266 may submit written comments to the board for its assistance and  
267 information in adopting its annual budget and long-term  
268 financial plan or program.

269 4. The district shall monitor, track, and compile  
270 information on an annual basis, based upon the submitted energy  
271 savings audits from borrowers pursuant to subsection (9), and  
272 shall include the following:

273 a. The total number and amount of energy efficiency and  
274 renewable energy improvements.

275 b. Estimated energy savings.

276 c. Estimated greenhouse gas reductions.

277 d. Estimated cost savings resulting from the improvements  
278 funded by the district.

279 (5) GENERAL POWERS AND DUTIES.—A district shall have, and  
280 the board may exercise by majority vote, the following powers:

281 (a) To sue and be sued in the name of the district, to  
282 adopt and use a seal and authorize the use of a facsimile  
283 thereof, and to make and execute contracts and other instruments  
284 necessary or convenient to the exercise of its powers.

285 (b) To provide for a pension or retirement plan for its  
286 employees. In accordance with s. 215.425, the board may provide  
287 for an extra compensation program, including a lump-sum bonus  
288 payment program, to reward outstanding employees whose  
289 performance exceeds standards, if the program provides that a  
290 bonus payment may not be included in an employee's regular base

21-01298-10

20102322

291 rate of pay and may not be carried forward in subsequent years.

292 (c) To contract for the services of consultants to perform  
293 planning, engineering, legal, or other professional services.

294 (d) To borrow money and accept gifts, to apply for and use  
295 grants or loans of money or other property from the United  
296 States, the state, a unit of local government, or any person for  
297 any district purpose and enter into agreements required in  
298 connection therewith, and to hold, use, sell, and dispose of  
299 such moneys or property for any district purpose in accordance  
300 with the terms of the gift, grant, loan, or agreement relating  
301 thereto.

302 (e) To adopt resolutions and procedures prescribing the  
303 powers, duties, and functions of the officers of the district;  
304 the conduct of the business of the district; the maintenance of  
305 records; and the form of other documents and records of the  
306 district. The board may also adopt ordinances and resolutions  
307 that are necessary to conduct district business, provided such  
308 ordinances do not conflict with any ordinances of a local  
309 general-purpose government within whose jurisdiction the  
310 district is located. Any resolution or ordinance adopted by the  
311 board and approved by vote of the district electors voting in a  
312 referendum may be repealed only by another vote of the district  
313 electors voting in a referendum.

314 (f) To maintain an office at places it designates within a  
315 county or municipality in which the district is located and  
316 appoint an agent of record.

317 (g) To acquire, by purchase, lease, gift, dedication,  
318 devise, or otherwise, real and personal property or any estate  
319 therein for any purpose authorized by this section and to trade,

21-01298-10

20102322

320 sell, or otherwise dispose of surplus real or personal property.

321 The board may purchase equipment by an installment sales  
322 contract if funds are available to pay the current year's  
323 installments on the equipment and to pay the amounts due that  
324 year on all other installments and indebtedness.

325 (h) To hold, control, and acquire by donation or purchase  
326 any public easement, dedication to public use, platted  
327 reservation for public purposes, or reservation for those  
328 purposes authorized by this section and to use such easement,  
329 dedication, or reservation for any purpose authorized by this  
330 section consistent with applicable adopted local government  
331 comprehensive plans and land development regulations.

332 (i) To lease as lessor or lessee to or from any person,  
333 firm, corporation, association, or body, public or private, any  
334 facility or property of any nature for the use of the district  
335 when necessary to carry out the district's duties and authority  
336 under this section.

337 (j) To borrow money and issue bonds, revenue anticipation  
338 notes, or certificates payable from and secured by a pledge of  
339 funds, revenues, assessments, warrants, notes, or other evidence  
340 of indebtedness, and mortgage real and personal property when  
341 necessary to carry out the district's duties and authority under  
342 this section.

343 (k) To charge user fees and assessments authorized by  
344 resolution of the board, in amounts necessary to conduct  
345 district activities and services, and to enforce their receipt  
346 and collection in the manner prescribed by resolution and  
347 authorized by law.

348 (l) To cooperate or contract with other persons or

21-01298-10

20102322

349 entities, including other governmental agencies, as necessary,  
350 convenient, incidental, or proper in connection with providing  
351 effective mutual aid and furthering any power, duty, or purpose  
352 authorized by this section.

353 (m) To assess and impose upon real property in the district  
354 non-ad valorem assessments as authorized by this section.

355 (n) To impose and foreclose non-ad valorem assessment liens  
356 as provided by this section or to impose, collect, and enforce  
357 non-ad valorem assessments pursuant to chapter 197.

358 (o) To select as a depository for its funds any qualified  
359 public depository as defined in s. 280.02 which meets all the  
360 requirements of chapter 280 and has been designated by the Chief  
361 Financial Officer as a qualified public depository, upon such  
362 terms and conditions as to the payment of interest upon the  
363 funds deposited as the board deems just and reasonable.

364 (p) To provide financing to owners of residential and  
365 commercial property within the energy improvement districts for  
366 authorized purposes within this section.

367 (q) To employ, and fix the compensation of, a district  
368 manager. The district manager shall have charge and supervision  
369 of the works of the district and shall be responsible for  
370 preserving and maintaining any improvement or facility  
371 constructed or erected pursuant to the provisions of this  
372 section, for maintaining and operating the equipment owned by  
373 the district, and for performing such other duties as may be  
374 prescribed by the board. The district manager may hire or  
375 otherwise employ and terminate the employment of such other  
376 persons, including, without limitation, professional,  
377 supervisory, and clerical employees, as may be necessary and

21-01298-10

20102322

378 authorized by the board. The compensation and other conditions  
379 of employment of the officers and employees of the district  
380 shall be as provided by the board.

381 (6) EXEMPTION FROM TAXATION.—Since the exercise of the  
382 powers conferred by this section constitutes action by a  
383 political subdivision performing essential public functions and  
384 since the property of each district constitutes public property  
385 used for public purposes, all assets and properties of each  
386 district, including property acquired through the foreclosure of  
387 any tax or assessment lien, are exempt from all taxes imposed by  
388 the state or any political subdivision, agency, or  
389 instrumentality of the state.

390 (7) ADMINISTRATION OF FUNDS; NON AD-VALOREM ASSESSMENTS.—

391 (a) Within 90 days after creation of a district by a county  
392 or municipality or after the election of the district board, and  
393 on a quarterly basis thereafter, a public hearing shall be  
394 scheduled to determine the number of residential or commercial  
395 landowners within the district requesting voluntary  
396 participation in the program for financing the costs of  
397 renewable or energy efficiency improvements. Such financing  
398 shall include interest rates and administrative fees as  
399 determined by the district.

400 (b) After a district has been created, the municipality,  
401 county, or special district shall notice a hearing by  
402 publication in a newspaper generally circulated within each  
403 county contained in the boundaries of the local government. The  
404 notice shall include the following information:

405 1. A statement indicating that an energy improvement  
406 district has been created to provide financing for installation

21-01298-10

20102322

407 of energy efficiency improvements for owners of participating  
408 properties within the district.

409 2. A map identifying the boundaries of the district with a  
410 statement that any owner of commercial, residential, or  
411 institutional property with structures whose energy consumption  
412 can be reduced by installation of energy efficient improvement  
413 may qualify for financing by its district.

414 3. Any financing of energy efficiency improvements to  
415 structures within the district will be financed by a district  
416 levy of non-ad valorem assessments against the property of any  
417 owner that voluntarily agrees to participate in the district's  
418 energy improvement program.

419 4. Property owners within the district that choose not to  
420 participate shall not be obligated to pay any non-ad valorem  
421 assessments.

422 5. The public hearing will be held to explain how the  
423 district will function and how property owners within the  
424 district who may wish to participate may do so.

425 (c) At the public hearing, the board shall advise  
426 interested landowners of the requirements to participate in the  
427 program, including entering into a written agreement with the  
428 district and conducting an energy savings audit by a qualified  
429 energy auditor. The board shall accept the request forms from  
430 interested landowners indicating their intent to participate in  
431 the program for financing the costs of renewable or energy  
432 efficiency improvements that the owner contracts to make to the  
433 property. The board shall determine the total number of those  
434 landowners requesting participation in the program and the  
435 cumulative total of participating landowners to date.

21-01298-10

20102322

436 (8) WRITTEN AGREEMENTS.—

437 (a) Upon a determination made pursuant to subsection (7),  
438 and the performance of an energy savings audit pursuant to  
439 subsection (9), an owner of real property within the boundaries  
440 of a energy improvement district may voluntarily enter into a  
441 written agreement with the district that constitutes the owner's  
442 consent to be subject to a non-ad valorem assessment as set  
443 forth in subsection (11). A district shall follow underwriting  
444 criteria consistent with prudent underwriting practices. The  
445 written agreement shall include:

446 1. An expression of voluntary consent to accept the non-ad  
447 valorem assessment.

448 2. The length of time permitted for the property owner to  
449 repay the non-ad valorem assessment shall not exceed the life  
450 expectancy of the project. In instances where multiple projects  
451 have been installed, the length of time shall not exceed the  
452 average lifetime of all projects weighted by cost. The lifetime  
453 of projects shall be determined by the energy improvement  
454 district or another qualified technical entity designated by the  
455 local government. The maximum repayment period is a maximum of  
456 20 years, including the term, interest rate, and administrative  
457 fees.

458 3. At the time of a transfer of property ownership other  
459 than through foreclosure, the past due balances of any non-ad  
460 valorem assessment under this subsection shall be due for  
461 payment, but future payments shall continue as a lien on the  
462 property.

463 4. A local government shall disclose to participating  
464 property owners the risks associated with participating in the



21-01298-10

20102322

465 program, including risks related to the failure of the  
466 participating property owners to make payments and the risk of  
467 issuance of a tax certificate and loss of the property.

468 (b) At least 30 days prior to entering into a written  
469 agreement, the property owner shall provide to the holders of  
470 any existing mortgage on the property notice of his or her  
471 intent to enter into the written agreement.

472 (9) ENERGY SAVINGS AUDIT.—After submittal of a request form  
473 to the district by the property owner indicating intent to  
474 participate in the program, and prior to entering into a written  
475 agreement, a property owner shall have an energy savings audit  
476 performed by a qualified energy auditor. All energy savings  
477 audits shall be reviewed and approved with a copy retained on  
478 file by the energy improvement district. The district shall  
479 provide a list of qualified energy auditors. The energy savings  
480 audit shall include the following information:

481 (a) Recommendations and estimated costs of energy savings  
482 measures.

483 (b) Estimated energy savings.

484 (c) Estimated greenhouse gas reductions.

485 (d) Estimated cost savings resulting from the  
486 implementation of the recommendations and use of funds made  
487 available by the district.

488 (10) DOCUMENTS RECORDED.—The written agreement entered into  
489 pursuant to subsection (8) and the energy savings audit  
490 performed pursuant to subsection (9) shall be filed with the  
491 clerk of the county or municipality for recording in the land  
492 records of the county or municipality and shall be disclosed to  
493 potential buyers prior to the transfer of ownership.

21-01298-10

20102322

494 (11) PROCEDURES FOR THE LEVY AND COLLECTION OF NON-AD  
495 VALOREM ASSESSMENTS.—

496 (a) A district may provide for the levy of voluntary non-ad  
497 valorem assessments under this section on the lands and real  
498 estate benefited by the exercise of the powers authorized by  
499 this section, or any part thereof, for all or any part of the  
500 cost thereof. Voluntary non-ad valorem assessments may be levied  
501 only on benefited real property at a rate of assessment based on  
502 the special benefit accruing to such property from such services  
503 or improvements. The district may use any assessment  
504 apportionment methodology that meets fair apportionment  
505 standards.

506 (b) The board may determine to exercise any power  
507 authorized by this section and defray the whole or any part of  
508 the expense thereof by voluntary non-ad valorem assessments.

509 (c)1. The board shall so declare by resolution stating the  
510 nature of the proposed service or improvement, the location of  
511 the service or improvement, any other projected expense of  
512 providing the service or improvement, and the part or portion of  
513 the expense thereof to be paid by voluntary non-ad valorem  
514 assessments, the manner in which the voluntary non-ad valorem  
515 assessments shall be made, when the voluntary non-ad valorem  
516 assessments are to be paid, and what part, if any, shall be  
517 apportioned to be paid from other revenues or funds of the  
518 district. The resolution shall also designate the lands upon  
519 which the voluntary non-ad valorem assessments shall be levied.  
520 Such lands may be designated by an assessment plat. The  
521 resolution shall also state the total estimated costs of the  
522 service or improvement. The resolution shall include information

21-01298-10

20102322

523 based upon an energy savings audit performed by a landowner  
524 being provided the service or improvement.

525 2. The estimated cost may include the cost of operations,  
526 including construction or reconstruction, the cost of all labor  
527 and materials, the cost of all lands, property, rights,  
528 easements, and franchises acquired, finance charges, interest  
529 prior to and during construction and for 1 year after completion  
530 of construction, discount on the sale of assessment bonds, cost  
531 of plans and specifications, surveys of estimates of costs and  
532 of revenues, cost of engineering and legal services, and all  
533 other expenses necessary or incident to determining the  
534 feasibility or practicability of the construction or  
535 reconstruction, administrative expense, and such other expenses  
536 as may be necessary or incident to the financing authorized by  
537 this section.

538 (d) At the time of the adoption of the resolution provided  
539 for in paragraph (c), there shall be on file at the district's  
540 offices an assessment plat showing the area to be assessed, with  
541 construction and operational plans and specifications, and an  
542 estimate of the cost of the proposed service or improvement,  
543 which assessment plat, plans, and specifications and estimate  
544 shall be open to the inspection of the public. The assessment  
545 plat shall be updated annually or when property is added or  
546 deleted from the non-ad valorem assessment.

547 (e) Upon the adoption of the resolution provided for in  
548 paragraph (c), the board shall cause to be made a preliminary  
549 assessment roll in accordance with the method of assessment  
550 provided for in the resolution. The assessment roll shall show  
551 the lots and lands assessed and the amount of the benefit to and

21-01298-10

20102322

552 the assessment against each lot or parcel of land, and, if the  
553 assessment is to be paid in installments, the number of annual  
554 installments in which the assessment is divided shall also be  
555 entered and shown upon the assessment roll.

556 (f) Upon adoption of the resolution provided for in  
557 paragraph (c) or completion of the preliminary assessment roll  
558 provided for in subsection (6), whichever is later, the board  
559 shall publish notice of the resolution once in a newspaper of  
560 general circulation in each county in which the district is  
561 located. The notice shall state in brief and general terms a  
562 description of the proposed service or improvements and that the  
563 plans, specifications, and estimates are available to the public  
564 at the district's offices. The notice shall also state the date  
565 and time of the hearing to hear any objections and finalize the  
566 assessment roll, which hearing shall be no earlier than 15 days  
567 after publication of the notice. The publication shall be  
568 verified by the affidavit of the publisher and filed with the  
569 secretary of the board.

570 (g) The non-ad valorem assessments:

571 1. Shall be payable at the time and in the manner  
572 stipulated in the resolution providing for the improvement or  
573 services.

574 2. Shall remain liens, coequal with the lien of all state,  
575 county, district, and municipal taxes, superior in dignity to  
576 all other liens, titles, and claims, until paid.

577 3. Shall bear interest as provided by s. 170.09 or, if  
578 bonds have been issued, at a rate not to exceed 1 percent above  
579 the rate of interest at which the bonds authorized pursuant to  
580 this section and used for a capital improvement are sold, from

21-01298-10

20102322

581 the date of the acceptance of the improvement.

582 4. May, by resolution and only for capital outlay projects,  
583 be made payable in equal installments over a period not to  
584 exceed 20 years, to which, if not paid when due, there shall be  
585 added a penalty at the rate of 1 percent per month, until paid.

586  
587 However, the assessments may be paid without interest at any  
588 time within 30 days after the improvement is completed and a  
589 resolution accepting the same has been adopted by the board.

590 (h) All assessments shall constitute a lien upon the  
591 property so assessed from the date of confirmation of the  
592 resolution ordering the improvement of the same nature and to  
593 the same extent as the lien for general county, municipal, or  
594 district taxes falling due in the same year or years in which  
595 such assessments or installments thereof fall due, and any  
596 assessment or installment not paid when due shall be collected  
597 with such interest and with a reasonable attorney's fee and  
598 costs, but without penalties, by the district by proceedings in  
599 a court of equity to foreclose the lien of assessment as a lien  
600 for mortgages is or may be foreclosed under the laws of the  
601 state, provided any such proceedings to foreclose shall embrace  
602 all installments of principal remaining unpaid with accrued  
603 interest thereon, which installments shall, by virtue of the  
604 institution of such proceedings immediately become due and  
605 payable. If, prior to any sale of the property under decree of  
606 foreclosure in such proceedings, payment is made of the  
607 installment or installments which are shown to be due under the  
608 provisions of the resolution passed pursuant to paragraph (c)  
609 and this subsection, and all costs including attorney's fees,

21-01298-10

20102322

610 the payment shall have the effect of restoring the remaining  
611 installments to their original maturities and the proceedings  
612 shall be dismissed. The district shall enforce the prompt  
613 collection of assessments by the means provided in this section  
614 and this duty may be enforced at the suit of any holder of bonds  
615 issued under this section in a court of competent jurisdiction  
616 by mandamus or other appropriate proceedings or action. Not  
617 later than 30 days after annual installments are due and  
618 payable, the board shall direct the attorney or attorneys whom  
619 the board shall designate to institute actions within 3 months  
620 after such direction to enforce the collection of all non-ad  
621 valorem assessments remaining due and unpaid at the time of such  
622 direction. Such action shall be prosecuted in the manner and  
623 under the conditions in and under which mortgages are foreclosed  
624 under the laws of the state. It is lawful to join in one action  
625 the collection of assessments against any or all property  
626 assessed by virtue of the same assessment roll unless the court  
627 deems such joinder prejudicial to the interest of any defendant.  
628 The court shall allow reasonable attorney's fees for the  
629 attorney or attorneys of the district and these fees shall be  
630 collectible as a part of or in addition to the costs of the  
631 action. At the sale pursuant to decree in any such action, the  
632 district may be a purchaser to the same extent as an individual  
633 person or corporation, except that the part of the purchase  
634 price represented by the assessments sued upon and the interest  
635 thereon need not be paid in cash. Property so acquired by the  
636 district may be sold or otherwise disposed of, the proceeds of  
637 such disposition to be placed in the fund provided for by  
638 paragraph (i), provided no sale or other disposition thereof

21-01298-10

20102322

639 shall be made unless the notice calling for bids therefore to be  
640 received at a stated time and place was published in a newspaper  
641 of general circulation in the district once in each of 4  
642 successive weeks prior to such disposition.

643 (i) All assessments and charges made under the provisions  
644 of this section for the payment of all or any part of the cost  
645 of any improvements for which assessment bonds have been issued  
646 under the provisions of this section are pledged to the payment  
647 of the principal of and the interest on the assessment bonds and  
648 shall, when collected, be placed in a separate fund, properly  
649 designated, such fund shall be used for no other purpose than  
650 the payment of such principal and interest.

651 (12) DISTRICT ISSUANCE OF BONDS, NOTES, BOND ANTICIPATION  
652 NOTES, OR OTHER EVIDENCES OF INDEBTEDNESS.-

653 (a) A district may issue assessment bonds, revenue bonds,  
654 notes, bond anticipation notes, or other evidences of  
655 indebtedness to finance all or a part of any proposed  
656 improvements authorized to be undertaken under this section or  
657 under general or special law, provided the total annual payments  
658 for the principal and interest on such indebtedness shall not  
659 exceed 50 percent of the total annual budgeted revenues of the  
660 district. The bonds shall be issued in such denominations,  
661 mature on such dates and in such amounts, and may be subject to  
662 optional and mandatory redemption as determined by resolutions  
663 adopted by the board. Bonds of the district may bear interest at  
664 a fixed, floating, or adjustable rates and may be issued as  
665 interest-bearing, interest-accruing bonds, or zero coupon bonds  
666 at such rate or rates, not exceeding the maximum rate permitted  
667 by general law, as determined by resolutions of the board.

21-01298-10

20102322

668 Principal and interest shall be payable in the manner determined  
669 by the board. The bonds shall be signed by manual or facsimile  
670 signature of the chair or vice chair of the board, attested with  
671 the seal of the district, and by the manual or facsimile  
672 signature of the secretary or assistant secretary of the board.

673 (b) The bonds shall be payable from the non-ad valorem  
674 assessments or other non-ad valorem revenues, including, without  
675 limitation, user fees or charges or rental income authorized to  
676 be levied or collected or received pursuant to this section or  
677 general law.

678 (c) In connection with the sale and issuance of bonds, the  
679 district may enter into any contracts that the board determines  
680 to be necessary or appropriate to achieve a desirable effective  
681 interest rate in connection with the bonds by means of, but not  
682 limited to, contracts commonly known as investment contracts,  
683 funding agreements, interest rate swap agreements, currency swap  
684 agreements, forward payment conversion agreements, futures,  
685 contracts providing for payments based on levels of or changes  
686 in interest rates, contracts to exchange cash flows or a series  
687 of payments, or contracts, including, without limitation,  
688 options, puts, or calls to hedge payment, rate, spread, or  
689 similar exposure. Such contracts or arrangements may also be  
690 entered into by the district in connection with, or incidental  
691 to, entering into any agreement that secures bonds or provides  
692 liquidity thereof. Such contracts and arrangements shall be made  
693 upon the terms and conditions established by the board, after  
694 giving due consideration for the credit worthiness of the  
695 counterparties, where applicable, including any rating by a  
696 nationally recognized rating service or any other criteria as



21-01298-10

20102322

697 may be appropriate.

698 (d) In connection with the sale and issuance of the bonds,  
699 or entering into any of the contracts or arrangements referred  
700 to in paragraph (c), the district may enter into such credit  
701 enhancement or liquidity agreements, with such payment, interest  
702 rate, security, default, remedy, and any other terms and  
703 conditions as the board shall determine.

704 (e) Notwithstanding any provisions of law relating to the  
705 investment or reinvestment of surplus funds of any governmental  
706 unit, proceeds of the bonds and any money set aside or pledged  
707 to secure payment of the principal of, premium, if any, and  
708 interest on the bonds, or any of the contacts entered into  
709 pursuant to paragraph (c), may be invested in securities or  
710 obligations described in the resolution providing for the  
711 issuance of bonds.

712 (f) The bonds shall be sold in any manner not inconsistent  
713 with general law, shall show the purpose for which they are  
714 issued, and shall be payable out of the money pledged thereof.  
715 The funds derived from the sale of such bonds or any of them  
716 shall be used for the purpose of paying the cost of the services  
717 or improvements and such costs, expenses, fees, and salaries as  
718 may be authorized by law.

719 (g) Non-ad valorem assessments or any portion thereof  
720 levied to pay principal on bonds issued pursuant to this section  
721 with respect to improvements financed therewith shall not exceed  
722 the benefits assessed regarding such works or improvements. If  
723 the bonds are sold at a discount, the amount of the discount  
724 shall be treated as interest, not as principal. Premiums payable  
725 upon the redemption of bonds shall also be treated as interest.

21-01298-10

20102322

726 Interest to accrue on account of issuing bonds shall not be  
727 construed as a part of the costs of the works or improvements in  
728 determining whether or not the costs of making such improvements  
729 are equal to or in excess of the benefits assessed. If the  
730 property appraiser and tax collector deduct their fees and  
731 charges from the amount of non-ad valorem assessments levied and  
732 collected, and if the landowners receive the statutorily  
733 permitted discount for early payment of such non-ad valorem  
734 assessments, the amount of such fees, charges, and discount  
735 shall not be included in the amount of non-ad valorem  
736 assessments levied by the district in determining whether such  
737 assessments are equal to or in excess of the benefits assessed.

738 (h) Any district created or organized under any general or  
739 special law may, whenever in the judgment of the board it is  
740 advisable and in the best interests of the landowners in the  
741 district, issue bonds to refund any or all of the then-  
742 outstanding bonded indebtedness of the district.

743 (i) The principal amount of refunding bonds may be in any  
744 amount not in excess of the benefits assessed against the lands  
745 with respect to which the refunded bonds were issued less the  
746 principal amount of the refunded bonds previously paid from non-  
747 ad valorem assessments. The proceeds of such refunding bonds  
748 shall be used only to pay the principal; premium, if any;  
749 interest on the bonds to be refunded; and any discount or  
750 expense of the sale of the refunding bonds, and to provide a  
751 debt service reserve fund for the refunding bonds. The district  
752 may also use other available revenues to pay costs associated  
753 with the issuance or administration of the refunding bonds.

754 (j) Assessments shall be levied for the payment of the

21-01298-10

20102322

755 refunding bonds in the same manner as the assessments levied for  
756 the refunded bonds and the refunding bonds shall be secured by  
757 the same lien as the refunded bonds, and any additional interest  
758 which accrues on account of the refunding bonds shall be  
759 included and added to the original assessment and shall be  
760 secured by the same lien, provided any interest accrued shall  
761 not be considered as a part of the cost of construction in  
762 determining whether the assessment exceeds the benefits  
763 assessed.

764 (k) No proceedings shall be required for the issuance of  
765 bonds or refunding bonds other than those provided by this  
766 section and by general law.

767 (13) PREPARATION OF FACILITIES PLANS AND ACCEPTABLE  
768 PROJECTS.—

769 (a) Each district shall adopt a 5-year plan to identify the  
770 facilities, equipment, personnel, and revenue needed by the  
771 district during that 5-year period. The plan shall be updated in  
772 accordance with s. 189.415 and shall satisfy the requirement for  
773 a public facilities report required by s. 189.415(2).

774 (b) Districts shall develop a list of acceptable energy  
775 efficiency and renewable energy projects and shall make the list  
776 available to the public on or before July 1 of each year  
777 consistent with the definitions set forth in this section for  
778 energy efficiency and renewable energy projects.

779 (14) DISTRICT CREATION AND MODIFICATION.—

780 (a) New districts may be created pursuant to this section  
781 or by the Legislature under s. 189.404.

782 (b) The boundaries of a district may be modified, extended,  
783 or enlarged upon approval or ratification by ordinance or

21-01298-10

20102322\_\_

784 special act.

785 Section 2. This act shall take effect July 1, 2010.