

By Senator Smith

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1                   A bill to be entitled  
2           An act relating to the election of the board of  
3           supervisors of a community development district;  
4           amending s. 99.061, F.S.; specifying the qualifying  
5           period for a person seeking to qualify for election to  
6           the board of supervisors of a community development  
7           district; amending s. 101.6102, F.S.; authorizing the  
8           election of the board of supervisors of a community  
9           development district to be conducted by mail; amending  
10          s. 190.006, F.S.; providing for the election of the  
11          board of supervisors of a community development  
12          district to be conducted by mail or regular ballot on  
13          a date that is acceptable to the board and the  
14          supervisor of elections; providing for the special  
15          election of the board of supervisors after the board  
16          proposes to exercise ad valorem taxing powers to occur  
17          by mail on a date acceptable to the board and the  
18          supervisor of elections or by regular ballot on a date  
19          that is acceptable to the board and the supervisor of  
20          elections, other than the date of a primary or general  
21          election; making technical and grammatical changes;  
22          providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Subsection (3) of section 99.061, Florida  
27           Statutes, is amended to read:

28           99.061 Method of qualifying for nomination or election to  
29           federal, state, county, or district office.-

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30           (3) Notwithstanding ~~the provisions of~~ any special act to  
31 the contrary, a each person seeking to qualify for election to a  
32 special district office, except the board of supervisors of a  
33 community development district, shall qualify between noon of  
34 the 71st day before ~~prior to~~ the primary election and noon of  
35 the 67th day before ~~prior to~~ the date of the primary election. A  
36 person seeking to qualify for the board of supervisors of a  
37 community development district shall qualify between noon of the  
38 71st day before and noon of the 67th day before the date of the  
39 election of the board. Candidates for single-county special  
40 districts shall qualify with the supervisor of elections in the  
41 county in which the district is located. If the district is a  
42 multicounty district, candidates shall qualify with the  
43 Department of State. All special district candidates shall  
44 qualify by paying a filing fee of \$25 or qualify by the petition  
45 process pursuant to s. 99.095. Notwithstanding s. 106.021, a  
46 candidate who does not collect contributions and whose only  
47 expense is the filing fee or signature verification fee is not  
48 required to appoint a campaign treasurer or designate a primary  
49 campaign depository.

50           Section 2. Subsections (2) and (5) of section 101.6102,  
51 Florida Statutes, are amended to read:

52           101.6102 Mail ballot elections; limitations.—

53           (2) The following elections may not be conducted by mail  
54 ballot:

55           (a) An election at which any candidate is nominated,  
56 elected, retained, or recalled, except an election of a  
57 candidate to the board of supervisors of a community development  
58 district; or

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59 (b) An election held on the same date as another election,  
60 other than a mail ballot election, in which the qualified  
61 electors of that political subdivision are eligible to cast  
62 ballots.

63 (5) ~~Nothing in~~ This section does not ~~shall be construed to~~  
64 prohibit the use of a mail ballot election in a municipal  
65 annexation referendum requiring separate vote of the registered  
66 electors of the annexing municipality and of the area proposed  
67 to be annexed. If a mail ballot election is authorized for a  
68 municipal annexation referendum, the provisions of ss. 101.6101-  
69 101.6107 shall control over any conflicting provisions of s.  
70 171.0413.

71 Section 3. Section 190.006, Florida Statutes, is amended to  
72 read:

73 190.006 Board of supervisors; members and meetings.—

74 (1) The board of the district shall exercise the powers  
75 granted to the district pursuant to this act. The board shall  
76 consist of five members; except as otherwise provided herein,  
77 each member shall be elected to ~~hold office for~~ a term of 2  
78 years or 4 years, as provided in this section, and until a  
79 successor is chosen and qualifies. The members of the board must  
80 be residents of the state and citizens of the United States.

81 (2) (a) Within 90 days after ~~following~~ the effective date of  
82 the rule or ordinance establishing the district, ~~there shall be~~  
83 ~~held~~ a meeting of the landowners of the district shall be held  
84 for the purpose of electing five supervisors for the district.  
85 Notice of the landowners' meeting shall be published once a week  
86 for 2 consecutive weeks in a newspaper of ~~which is in~~ general  
87 circulation in the area of the district. 7 The last day of ~~such~~

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88 publication of the notice may ~~to be~~ not be less ~~fewer~~ than 14  
89 days or more than 28 days before the date of the election. The  
90 landowners, when assembled at such meeting, shall organize by  
91 electing a chair who shall conduct the meeting. The chair may be  
92 any person present at the meeting. If the chair is a landowner  
93 or proxy holder of a landowner, he or she may nominate  
94 candidates and make and second motions.

95 (b) At the ~~such~~ meeting, each landowner is ~~shall be~~  
96 entitled to cast one vote per acre of land owned by him or her  
97 and located within the district for each person to be elected. A  
98 landowner may vote in person or by proxy in writing. Each proxy  
99 must be signed by one of the legal owners of the property for  
100 which the vote is cast and must contain the typed or printed  
101 name of the individual who signed the proxy; the street address,  
102 legal description of the property, or tax parcel identification  
103 number; and the number of authorized votes. If the proxy  
104 authorizes more than one vote, each property must be listed and  
105 the number of acres of each property must be included. The  
106 signature on a proxy need not be notarized. A fraction of an  
107 acre shall be treated as 1 acre, entitling the landowner to one  
108 vote with respect thereto. For purposes of determining voting  
109 interests, platted lots shall be counted individually and  
110 rounded up to the nearest whole acre. The acreage of platted  
111 lots may ~~shall~~ not be aggregated for determining the number of  
112 voting units held by a landowner or a landowner's proxy. The two  
113 candidates receiving the highest number of votes shall be  
114 elected to ~~for~~ a term ~~period~~ of 4 years, and the three  
115 candidates receiving the next largest number of votes shall be  
116 elected to ~~for~~ a term ~~period~~ of 2 years, with the term of office

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117 for each successful candidate commencing upon election. After  
 118 the initial election ~~The members of the first board elected by~~  
 119 ~~landowners shall serve their respective 4-year or 2-year terms;~~  
 120 ~~however,~~ the next election by landowners shall be held on the  
 121 first Tuesday in November. Thereafter, ~~there shall be an~~  
 122 election of supervisors for the district shall be held every 2  
 123 years. The elections shall be held by mail ballot on a date that  
 124 is acceptable to the board and the supervisor of elections or by  
 125 a regular ballot on the date of a general or special election or  
 126 other date that is acceptable to the board and the supervisor of  
 127 elections in November on a date established by the board and  
 128 noticed pursuant to paragraph (a). The second and subsequent  
 129 landowners' election shall be announced at a public meeting of  
 130 the board at least 90 days before ~~prior to~~ the date of the  
 131 landowners' meeting and shall ~~also~~ be noticed pursuant to  
 132 paragraph (a). Instructions on how all landowners may  
 133 participate in the election, along with sample proxies, shall be  
 134 provided during the board meeting that announces the landowners'  
 135 meeting. The two candidates receiving the highest number of  
 136 votes shall be elected to serve for a 4-year term period, and  
 137 the remaining candidate elected shall serve for a 2-year term  
 138 period.

139 (3) (a)1. If the board proposes to exercise the ad valorem  
 140 taxing power authorized by s. 190.021, the district board shall  
 141 call a special ~~an~~ election at which the members of the board of  
 142 supervisors will be elected. The special election shall be held  
 143 on a date that is acceptable to the board and the supervisor of  
 144 elections. The special ~~Such~~ election may be held by mail ballot  
 145 or by regular ballot on a date other than the date of ~~shall be~~

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146 ~~held in conjunction with~~ a primary or general election. ~~unless~~  
147 The district shall bear ~~bears~~ the cost of the ~~a~~ special  
148 election. Each member shall be elected by the qualified electors  
149 of the district for a term of 4 years, except that, at the first  
150 such election, three members shall be elected for a period of 4  
151 years and two members shall be elected for a period of 2 years.  
152 All elected board members must be qualified electors of the  
153 district.

154 2.a. Regardless of whether a district has proposed to levy  
155 ad valorem taxes, commencing 6 years after the initial  
156 appointment of members or, for a district exceeding 5,000 acres  
157 in area or for a compact, urban, mixed-use district, 10 years  
158 after the initial appointment of members, the position of each  
159 member whose term has expired shall be filled by a qualified  
160 elector of the district, elected by the qualified electors of  
161 the district. However, for those districts established after  
162 June 21, 1991, and for those existing districts established  
163 after December 31, 1983, which have fewer ~~less~~ than 50 qualified  
164 electors on June 21, 1991, sub-subparagraphs b. and d. shall  
165 apply. If, in the 6th year after the initial appointment of  
166 members, or 10 years after such initial appointment for  
167 districts exceeding 5,000 acres in area or for a compact, urban,  
168 mixed-use district, there are not at least 250 qualified  
169 electors in the district, or for a district exceeding 5,000  
170 acres or for a compact, urban, mixed-use district, there are not  
171 at least 500 qualified electors, members of the board shall  
172 continue to be elected by landowners.

173 b. After the 6th or 10th year, once a district reaches 250  
174 or 500 qualified electors, respectively, ~~then~~ the positions of

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175 two board members whose terms are expiring shall be filled by  
176 qualified electors of the district, elected by the qualified  
177 electors of the district for 4-year terms. The remaining board  
178 member whose term is expiring shall be elected for a 4-year term  
179 by the landowners and is not required to be a qualified elector.  
180 Thereafter, as terms expire, board members shall be qualified  
181 electors elected by qualified electors of the district for a  
182 term of 4 years.

183 c. Once a district qualifies to have any of its board  
184 members elected by the qualified electors of the district, the  
185 initial and all subsequent elections by the qualified electors  
186 of the district shall be held at the general election in  
187 November. The board shall adopt a resolution if necessary to  
188 implement this requirement when the board determines the number  
189 of qualified electors as required by sub-subparagraph d., to  
190 extend or reduce the terms of current board members.

191 d. On or before June 1 of each year, the board shall  
192 determine the number of qualified electors in the district as of  
193 the immediately preceding April 15. The board shall use and rely  
194 upon the official records maintained by the supervisor of  
195 elections and property appraiser or tax collector in each county  
196 in making this determination. Such determination shall be made  
197 at a properly noticed meeting of the board and shall become a  
198 part of the official minutes of the district.

199 (b) Elections of board members by qualified electors held  
200 pursuant to this subsection shall be nonpartisan and shall be  
201 conducted in the manner prescribed by law for holding general  
202 elections. The district shall publish a notice of the qualifying  
203 period set by the supervisor of elections for each election at

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204 least 2 weeks before ~~prior to~~ the start of the qualifying  
205 period. Board members shall assume the office on the second  
206 Tuesday following their election. If no elector qualifies for a  
207 seat to be filled in an election, a vacancy in that seat shall  
208 be declared by the board effective on the second Tuesday  
209 following the election. Within 90 days thereafter, the board  
210 shall appoint a qualified elector to fill the vacancy. Until  
211 such appointment, the incumbent board member in that seat shall  
212 remain in office.

213 (c) Candidates seeking election to office by qualified  
214 electors under this subsection shall conduct their campaigns in  
215 accordance with the provisions of chapter 106 and shall file  
216 qualifying papers and qualify for individual seats in accordance  
217 with s. 99.061.

218 (d) The supervisor of elections shall appoint the  
219 inspectors and clerks of elections, prepare and furnish the  
220 ballots, designate polling places, and canvass the returns of  
221 the election of board members by qualified electors. The county  
222 canvassing board shall declare and certify the results of the  
223 election.

224 (4) Members of the board shall be known as supervisors and,  
225 upon entering into office, shall take and subscribe to the oath  
226 of office as prescribed by s. 876.05. They shall hold office for  
227 the terms for which they were elected or appointed and until  
228 their successors are chosen and qualified. If, during the term  
229 of office, a vacancy occurs, the remaining members of the board  
230 shall fill the vacancy by an appointment for the remainder of  
231 the unexpired term.

232 (5) A majority of the members of the board constitutes a



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233 quorum for the purposes of conducting its business and  
234 exercising its powers and for all other purposes. Action taken  
235 by the district shall be upon a vote of a majority of the  
236 members present unless general law or a rule of the district  
237 requires a greater number.

238 (6) As soon as practicable after each election or  
239 appointment, the board shall organize by electing one of its  
240 members as chair and by electing a secretary, who need not be a  
241 member of the board, and such other officers as the board may  
242 deem necessary.

243 (7) The board shall keep a permanent record book entitled  
244 "Record of Proceedings of ... (name of district) ... Community  
245 Development District," in which shall be recorded minutes of all  
246 meetings, resolutions, proceedings, certificates, bonds given by  
247 all employees, and any and all corporate acts. The record book  
248 shall at reasonable times be opened to inspection in the same  
249 manner as state, county, and municipal records pursuant to  
250 chapter 119. The record book shall be kept at the office or  
251 other regular place of business maintained by the board in the  
252 county or municipality in which the district is located or  
253 within the boundaries of a development of regional impact or  
254 Florida Quality Development, or combination of a development of  
255 regional impact and Florida Quality Development, which includes  
256 the district.

257 (8) Each supervisor shall be entitled to receive for his or  
258 her services an amount not to exceed \$200 per meeting of the  
259 board of supervisors, not to exceed \$4,800 per year per  
260 supervisor, or an amount established by the electors at  
261 referendum. In addition, each supervisor shall receive travel

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262 and per diem expenses as set forth in s. 112.061.

263 (9) All meetings of the board shall be open to the public  
264 and governed by the provisions of chapter 286.

265 Section 4. This act shall take effect July 1, 2012.