

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
 2 Committee

3 Representative Caldwell offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (2) of section 189.404, Florida  
 8 Statutes, is amended to read:

9 189.404 Legislative intent for the creation of independent  
 10 special districts; special act prohibitions; model elements and  
 11 other requirements; general-purpose local government/Governor  
 12 and Cabinet creation authorizations.—

13 (2) SPECIAL ACTS PROHIBITED.—Pursuant to s. 11(a)(21),  
 14 Art. III of the State Constitution, the Legislature hereby  
 15 prohibits special laws or general laws of local application  
 16 which:

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17 (a) Create independent special districts that do not, at a  
18 minimum, conform to the minimum requirements in subsection (3);

19 (b) Exempt independent special district elections from the  
20 appropriate requirements in s. 189.405;

21 (c) Exempt an independent special district from the  
22 requirements for bond referenda in s. 189.408;

23 (d) Exempt an independent special district from the  
24 reporting, notice, or public meetings requirements of s.  
25 189.4085, s. 189.415, s. 189.417, or s. 189.418;

26 (e) Create an independent special district for which a  
27 statement has not been submitted to the Legislature that  
28 documents the following:

29 1. The purpose of the proposed district;

30 2. The authority of the proposed district;

31 3. An explanation of why the district is the best  
32 alternative; and

33 4. A resolution or official statement of the governing  
34 body or an appropriate administrator of the local jurisdiction  
35 within which the proposed district is located stating that the  
36 creation of the proposed district is consistent with the  
37 approved local government plans of the local governing body and  
38 that the local government has no objection to the creation of  
39 the proposed district;—

40 (f) The prohibitions of this subsection do not apply to the  
41 conversion of a water control district established under chapter  
42 298, or established by a special act that incorporates the

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43 powers of chapter 298, to a community development district under  
44 part II of chapter 190.

45 Section 2. Subsection (9) is added to section 189.412,  
46 Florida Statutes, to read:

47 189.412 Special District Information Program; duties and  
48 responsibilities.—The Special District Information Program of  
49 the Department of Economic Opportunity is created and has the  
50 following special duties:

51 (9) The collection and maintenance of the special act,  
52 rule, ordinance, resolution, or other document that provides for  
53 the creation of each special district. The department shall make  
54 such documents available to the public on its website by  
55 December 31, 2014. The department may coordinate with the  
56 Department of State to implement this subsection.

57 Section 3. Subsection (4) of section 190.004, Florida  
58 Statutes, is amended to read:

59 190.004 Preemption; sole authority.—

60 (4) Except for conversions of water control districts  
61 under part II of this chapter, the ~~The~~ exclusive charter for a  
62 community development district shall be the uniform community  
63 development district charter as set forth in ss. 190.006-  
64 190.041, including the special powers provided by s. 190.012.

65 Section 4. Subsections (1) and (2) of section 190.005,  
66 Florida Statutes, are amended to read:

67 190.005 Establishment of district.—

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68           (1) With the exception of a community development district  
69 established by the conversion of a water control district under  
70 part II of this chapter, the ~~The~~ exclusive and uniform method  
71 for the establishment of a community development district with a  
72 size of 1,000 acres or more shall be pursuant to a rule, adopted  
73 under chapter 120 by the Florida Land and Water Adjudicatory  
74 Commission, granting a petition for the establishment of a  
75 community development district.

76           (a) A petition for the establishment of a community  
77 development district shall be filed by the petitioner with the  
78 Florida Land and Water Adjudicatory Commission. The petition  
79 shall contain:

80           1. A metes and bounds description of the external  
81 boundaries of the district. Any real property within the  
82 external boundaries of the district which is to be excluded from  
83 the district shall be specifically described, and the last known  
84 address of all owners of such real property shall be listed. The  
85 petition shall also address the impact of the proposed district  
86 on any real property within the external boundaries of the  
87 district which is to be excluded from the district.

88           2. The written consent to the establishment of the  
89 district by all landowners whose real property is to be included  
90 in the district or documentation demonstrating that the  
91 petitioner has control by deed, trust agreement, contract, or  
92 option of 100 percent of the real property to be included in the  
93 district, and when real property to be included in the district

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94 is owned by a governmental entity and subject to a ground lease  
95 as described in s. 190.003(14), the written consent by such  
96 governmental entity.

97 3. A designation of five persons to be the initial members  
98 of the board of supervisors, who shall serve in that office  
99 until replaced by elected members as provided in s. 190.006.

100 4. The proposed name of the district.

101 5. A map of the proposed district showing current major  
102 trunk water mains and sewer interceptors and outfalls if in  
103 existence.

104 6. Based upon available data, the proposed timetable for  
105 construction of the district services and the estimated cost of  
106 constructing the proposed services. These estimates shall be  
107 submitted in good faith but are not binding and may be subject  
108 to change.

109 7. A designation of the future general distribution,  
110 location, and extent of public and private uses of land proposed  
111 for the area within the district by the future land use plan  
112 element of the effective local government comprehensive plan of  
113 which all mandatory elements have been adopted by the applicable  
114 general-purpose local government in compliance with the  
115 Community Planning Act.

116 8. A statement of estimated regulatory costs in accordance  
117 with the requirements of s. 120.541.

118 (b) Prior to filing the petition, the petitioner shall:

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119 1. Pay a filing fee of \$15,000 to the county, if located  
120 within an unincorporated area, or to the municipality, if  
121 located within an incorporated area, and to each municipality  
122 the boundaries of which are contiguous with, or contain all or a  
123 portion of the land within, the external boundaries of the  
124 district.

125 2. Submit a copy of the petition to the county, if located  
126 within an unincorporated area, or to the municipality, if  
127 located within an incorporated area, and to each municipality  
128 the boundaries of which are contiguous with, or contain all or a  
129 portion of, the land within the external boundaries of the  
130 district.

131 3. If land to be included within a district is located  
132 partially within the unincorporated area of one or more counties  
133 and partially within a municipality or within two or more  
134 municipalities, pay a \$15,000 filing fee to each entity.  
135 Districts established across county boundaries shall be required  
136 to maintain records, hold meetings and hearings, and publish  
137 notices only in the county where the majority of the acreage  
138 within the district lies.

139 (c) Such county and each such municipality required by law  
140 to receive a petition may conduct a public hearing to consider  
141 the relationship of the petition to the factors specified in  
142 paragraph (e). The public hearing shall be concluded within 45  
143 days after the date the petition is filed unless an extension of  
144 time is requested by the petitioner and granted by the county or

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145 municipality. The county or municipality holding such public  
146 hearing may by resolution express its support of, or objection  
147 to the granting of, the petition by the Florida Land and Water  
148 Adjudicatory Commission. A resolution must base any objection to  
149 the granting of the petition upon the factors specified in  
150 paragraph (e). Such county or municipality may present its  
151 resolution of support or objection at the Florida Land and Water  
152 Adjudicatory Commission hearing and shall be afforded an  
153 opportunity to present relevant information in support of its  
154 resolution.

155 (d) A local public hearing on the petition shall be  
156 conducted by a hearing officer in conformance with the  
157 applicable requirements and procedures of the Administrative  
158 Procedure Act. The hearing shall include oral and written  
159 comments on the petition pertinent to the factors specified in  
160 paragraph (e). The hearing shall be held at an accessible  
161 location in the county in which the community development  
162 district is to be located. The petitioner shall cause a notice  
163 of the hearing to be published in a newspaper at least once a  
164 week for the 4 successive weeks immediately prior to the  
165 hearing. Such notice shall give the time and place for the  
166 hearing, a description of the area to be included in the  
167 district, which description shall include a map showing clearly  
168 the area to be covered by the district, and any other relevant  
169 information which the establishing governing bodies may require.  
170 The advertisement shall not be placed in that portion of the

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171 newspaper where legal notices and classified advertisements  
172 appear. The advertisement shall be published in a newspaper of  
173 general paid circulation in the county and of general interest  
174 and readership in the community, not one of limited subject  
175 matter, pursuant to chapter 50. Whenever possible, the  
176 advertisement shall appear in a newspaper that is published at  
177 least 5 days a week, unless the only newspaper in the community  
178 is published fewer than 5 days a week. In addition to being  
179 published in the newspaper, the map referenced above must be  
180 part of the online advertisement required pursuant to s.  
181 50.0211. All affected units of general-purpose local government  
182 and the general public shall be given an opportunity to appear  
183 at the hearing and present oral or written comments on the  
184 petition.

185 (e) The Florida Land and Water Adjudicatory Commission  
186 shall consider the entire record of the local hearing, the  
187 transcript of the hearing, resolutions adopted by local general-  
188 purpose governments as provided in paragraph (c), and the  
189 following factors and make a determination to grant or deny a  
190 petition for the establishment of a community development  
191 district:

192 1. Whether all statements contained within the petition  
193 have been found to be true and correct.

194 2. Whether the establishment of the district is  
195 inconsistent with any applicable element or portion of the state



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196 comprehensive plan or of the effective local government  
197 comprehensive plan.

198 3. Whether the area of land within the proposed district  
199 is of sufficient size, is sufficiently compact, and is  
200 sufficiently contiguous to be developable as one functional  
201 interrelated community.

202 4. Whether the district is the best alternative available  
203 for delivering community development services and facilities to  
204 the area that will be served by the district.

205 5. Whether the community development services and  
206 facilities of the district will be incompatible with the  
207 capacity and uses of existing local and regional community  
208 development services and facilities.

209 6. Whether the area that will be served by the district is  
210 amenable to separate special-district government.

211 (f) The Florida Land and Water Adjudicatory Commission  
212 shall not adopt any rule which would expand, modify, or delete  
213 any provision of the uniform community development district  
214 charter as set forth in ss. 190.006-190.041, except as provided  
215 in s. 190.012. A rule establishing a community development  
216 district shall only contain the following:

217 1. A metes and bounds description of the external  
218 boundaries of the district and any real property within the  
219 external boundaries of the district which is to be excluded.

220 2. The names of five persons designated to be the initial  
221 members of the board of supervisors.

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222 3. The name of the district.

223 (g) The Florida Land and Water Adjudicatory Commission may  
224 adopt rules setting forth its procedures for considering  
225 petitions to establish, expand, modify, or delete uniform  
226 community development districts or portions thereof consistent  
227 with the provisions of this section.

228 (2) With the exception of a community development district  
229 established by the conversion of a water control district under  
230 part II of this chapter, the ~~The~~ exclusive and uniform method  
231 for the establishment of a community development district of  
232 less than 1,000 acres in size shall be pursuant to an ordinance  
233 adopted by the county commission of the county having  
234 jurisdiction over the majority of land in the area in which the  
235 district is to be located granting a petition for the  
236 establishment of a community development district as follows:

237 (a) A petition for the establishment of a community  
238 development district shall be filed by the petitioner with the  
239 county commission. The petition shall contain the same  
240 information as required in paragraph (1) (a).

241 (b) A public hearing on the petition shall be conducted by  
242 the county commission in accordance with the requirements and  
243 procedures of paragraph (1) (d).

244 (c) The county commission shall consider the record of the  
245 public hearing and the factors set forth in paragraph (1) (e) in  
246 making its determination to grant or deny a petition for the  
247 establishment of a community development district.

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248 (d) The county commission shall not adopt any ordinance  
249 which would expand, modify, or delete any provision of the  
250 uniform community development district charter as set forth in  
251 ss. 190.006-190.041. An ordinance establishing a community  
252 development district shall only include the matters provided for  
253 in paragraph (1)(f) unless the commission consents to any of the  
254 optional powers under s. 190.012(2) at the request of the  
255 petitioner.

256 (e) If all of the land in the area for the proposed  
257 district is within the territorial jurisdiction of a municipal  
258 corporation, then the petition requesting establishment of a  
259 community development district under this act shall be filed by  
260 the petitioner with that particular municipal corporation. In  
261 such event, the duties of the county, hereinabove described, in  
262 action upon the petition shall be the duties of the municipal  
263 corporation. If any of the land area of a proposed district is  
264 within the land area of a municipality, the county commission  
265 may not create the district without municipal approval. If all  
266 of the land in the area for the proposed district, even if less  
267 than 1,000 acres, is within the territorial jurisdiction of two  
268 or more municipalities, the petition shall be filed with the  
269 Florida Land and Water Adjudicatory Commission and proceed in  
270 accordance with subsection (1).

271 (f) Notwithstanding any other provision of this  
272 subsection, within 90 days after a petition for the  
273 establishment of a community development district has been filed

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274 pursuant to this subsection, the governing body of the county or  
275 municipal corporation may transfer the petition to the Florida  
276 Land and Water Adjudicatory Commission, which shall make the  
277 determination to grant or deny the petition as provided in  
278 subsection (1). A county or municipal corporation shall have no  
279 right or power to grant or deny a petition that has been  
280 transferred to the Florida Land and Water Adjudicatory  
281 Commission.

282 Section 5. Section 190.0485, Florida Statutes, is amended  
283 to read:

284 190.0485 Notice of establishment.—Within 30 days after the  
285 effective date of a rule or ordinance under this part I or a  
286 special law or general law of local application under part II  
287 establishing a community development district under this  
288 chapter~~act~~, the district shall cause to be recorded in the  
289 property records in the county in which it is located a "Notice  
290 of Establishment of the ..... Community Development  
291 District." The notice shall, at a minimum, include the legal  
292 description of the district and a copy of the disclosure  
293 statement specified in s. 190.048.

294 Section 6. Section 190.049, Florida Statutes, is amended  
295 to read:

296 190.049 Special acts prohibited.—Pursuant to s. 11(a)(21),  
297 Art. III of the State Constitution, there shall be no special  
298 law or general law of local application creating an independent  
299 special district which has the powers enumerated in two or more

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300 of the paragraphs contained in s. 190.012, unless such district  
301 is created pursuant to the provisions of s. 189.404. This section  
302 shall not prohibit special or local laws which codify special  
303 powers approved by referendum in the charter of a water  
304 management district existing under chapter 298 and reestablish  
305 such district as a community development district under part II  
306 of this chapter.

307 Section 7. Chapter 190, Florida Statutes, consisting of  
308 sections 190.001 through 190.049, is designated as part I of  
309 that chapter, and part II, consisting of sections 190.10 through  
310 190.14, is created to read:

311 PART II

312 CONVERSION OF WATER CONTROL DISTRICTS

313 190.10 Special powers; authorization for water control  
314 district to conduct referendum.-

315 (1) The popularly elected governing board of a water  
316 control district established under chapter 298, or established  
317 by special act that incorporates the powers of chapter 298, that  
318 has been granted additional authority, powers, rights, or  
319 privileges by special law or general law of local application  
320 prior to July 1, 2014, is authorized to conduct a referendum on  
321 the question of whether the district should be converted to a  
322 community development district under this part II in order to  
323 exercise one or more of the special powers of a community  
324 development district relating to public improvements and  
325 community facilities authorized by s. 190.012. The governing

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326 board of a water control district shall initiate a referendum  
327 under this section by adopting a resolution at a regularly  
328 scheduled board meeting called to determine whether to conduct  
329 the referendum. The resolution must establish the date of the  
330 referendum, state the purpose is to consider whether the  
331 district should be converted to a community development district  
332 under this part II, and specify the special powers that the  
333 governing board requests authorization to exercise.

334 (2) The referendum election shall be conducted by the  
335 supervisor of elections pursuant to ss. 101.6101-101.6107 by  
336 mail ballot of the registered electors residing in the district.  
337 The costs of the election shall be paid by the district  
338 conducting the referendum.

339 190.11 Referendum requirements and procedures.-

340 (1) Each referendum question shall be in substantially the  
341 following form:

342  
343 REFERENDUM AUTHORIZING THE ...(district name)... WATER CONTROL  
344 DISTRICT TO EXERCISE CERTAIN SPECIAL POWERS

345  
346 Shall the ...(district name)... water control district  
347 be authorized to exercise the following special powers  
348 within the jurisdiction of the district:

349  
350 ...(List special powers to be exercised)....  
351

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352 Yes.... No....

353  
354 (2) Before conducting a referendum, the governing  
355 board of the water control district must provide public notice  
356 of the referendum in a newspaper of general circulation in the  
357 county in which the district is located. If the district is  
358 located in more than one county, the notice shall be provided in  
359 a newspaper of general circulation in each county in which the  
360 district is located. The notice shall be published twice, once  
361 in the fifth week and once in the second week before the  
362 referendum election.

363 190.12 Effect of referendum.—If a majority of the electors  
364 voting:

365 (1) Approve the referendum question, following  
366 certification of the referendum results the governing board of  
367 the water control district shall prepare at its own expense  
368 proposed legislation codifying the approved powers together with  
369 all special acts comprising the district's charter in a single  
370 act to comprise a single, integrated district charter and  
371 reestablishing the district as a community development district,  
372 such recodification to conform with the requirements of s.  
373 189.429; or

374 (2) Disapprove the referendum question, the governing  
375 board may not exercise the requested special powers and is  
376 prohibited from calling a subsequent referendum on the question

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377 of exercising those special powers for 5 years after the date of  
378 the referendum.

379 190.13 Codification; conversion to community development  
380 district.-At the next regular session of the Legislature after  
381 approval of a referendum authorizing a water control district to  
382 exercise special powers of a community development district, the  
383 district shall submit the local bill required by s. 190.12 to  
384 the Legislature. Upon the effective date of such special act or  
385 general law of local application of the Legislature, the water  
386 control district is converted to a community development  
387 district, may begin exercising all additional authority, powers,  
388 rights, or privileges granted by the Legislature, and shall be  
389 governed by this part, the district's special act, and all  
390 provisions of part I of this chapter not inconsistent with this  
391 part or the district's special act.

392 190.14 Special and general acts of local application  
393 prohibited.- Pursuant to s. 11(a)(21), Art. III of the State  
394 Constitution, there shall be no special law or general law of  
395 local application granting additional authority, powers, rights,  
396 or privileges to a district converted to a community development  
397 district under s. 190.13 except a special law or general law of  
398 local application codifying additional powers approved by a  
399 majority of the qualified electors within the district in a  
400 referendum as provided for in this part.

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402 Section 8. Subsection (1) of section 298.76, Florida  
403 Statutes, is amended to read:

404 298.76 Special or local legislation; effect.—

405 (1) This chapter is amended to provide that, pursuant to  
406 the authority granted the Legislature in s. 11(a)(21), Art. III  
407 of the State Constitution, there shall be no special law or  
408 general law of local application granting additional authority,  
409 powers, rights, or privileges to any water control district  
410 formed pursuant to this chapter. However, this subsection shall  
411 not prohibit special or local legislation which:

412 (a) Amends an existing special act which provides for the  
413 levy of an annual maintenance tax of a district;

414 (b) Extends the corporate life of a district;

415 (c) Consolidates adjacent districts; or

416 (d) Authorizes the construction or maintenance of roads  
417 for agricultural purposes as outlined in this chapter.

418 (e) Authorizes the conversion of a district to a community  
419 development district, as authorized by part II of chapter 190.

420 Section 9. This act shall take effect July 1, 2014.

421

422

423 -----

424 **T I T L E A M E N D M E N T**

425 Remove everything before the enacting clause and insert:

426 An act relating to special districts; amending s. 189.404, F.S.;

427 exempting the conversion of certain water control districts from

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1129 (2014)

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428 specific charter requirements; amending s. 189.412, F.S.;

429 requiring the Department of Economic Opportunity to publish

430 certain information on its website with respect to special

431 districts; authorizing the department to coordinate with the

432 Department of State for certain purposes; amending s. 190.004,

433 F.S.; creating an exception for the conversion of certain water

434 control districts; amending s. 190.005, F.S.; creating an

435 exception for a community development district created by the

436 conversion of a water control district; amending s. 190.0485,

437 F.S.; requiring districts created by the conversion of water

438 control districts to record a notice of establishment; amending

439 s. 190.049, F.S.; exempting acts creating districts by the

440 conversion of water control districts; creating part II of

441 chapter 190, F.S., relating to conversion of water control

442 districts to community development districts; authorizing the

443 popularly elected governing board of a water control district to

444 conduct a referendum on the question of whether the district may

445 convert to a community development district; providing

446 referendum requirements and procedures; providing notice

447 requirements; providing for special act, upon referendum

448 approval, to codify special powers in the charter of the water

449 control district and provide for conversion of the district to a

450 community development district; creating a prohibition on

451 enacting special laws granting additional powers without prior

452 referendum; amending s. 298.76, F.S.; authorizing the conversion

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Bill No. CS/HB 1129 (2014)

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453 | of a water control district to a community development district  
454 | by special or local legislation; providing an effective date.